

**LOCAL  
GOVERNMENT LAW  
AND  
ADMINISTRATION**

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**ANNUAL CONTINUATION VOLUME, 1943**



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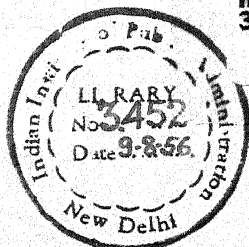
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# LOCAL GOVERNMENT LAW AND ADMINISTRATION IN ENGLAND AND WALES

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## THE ENGLISH AND EMPIRE DIGEST

In addition to the usual citation of the reports of cases in the footnotes, there will be found a reference to the volume, page, and case number at which the case appears in the Digest. Thus:

*Bennett v. Stepney Borough Council* (1912), 107 L.T. 383 ;  
38 Digest 101, 730.

## HALSBURY'S COMPLETE STATUTES OF ENGLAND

References to Public Acts of Parliament are followed by a reference to the volume and page at which the Act or section of the Act appears in Halsbury's Complete Statutes of England. Thus:

The Local Government Act, 1933; 26 Halsbury's Statutes  
295.

## ALL ENGLAND LAW REPORTS

After cases heard since February, 1936, references are given to this series of reports thus:

*Camkin v. Bishop*, [1941] 2 All E. R. 713.

R  
B7x42  
L787

## PUBLISHERS' NOTE

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THIS volume contains the relevant Statutes, Orders, Circulars and Memoranda, Cases and Decisions of the year 1943. The same classification of titles has been followed as in the first continuation volume (Vol. 15), the emergency legislation being dealt with under the various titles.

There are again very few Statutes of importance affecting local authorities. Attention should, however, be directed to the very important Town and Country Planning (Interim Development) Act, 1943 (pp. 429 *et seq.*) and the Restriction of Ribbon Development (Temporary Development) Act, 1943 (pp. 270 *et seq.*)

Among the Orders of special importance to local authorities are the Defence (Fire Guard) Regulations, 1943 (S. R. & O. 1943, No. 916), and the Orders made thereunder (pp. 163 *et seq.*, *post*); the Defence (Sale of Food) Regulations, 1943 (S. R. & O. 1943, No. 1553) (pp. 251 *et seq.*, *post*); and the Town and Country Planning Additional Regulations, 1943 (pp. 448 *et seq.*)

The Orders made under the emergency legislation are already extremely numerous, and their number increases *de die in diem*. Obviously it is impossible to publish them all, though the Editors are assured they have selected everything of general importance.

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October, 1944.

## LIST OF ABBREVIATIONS

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All England Reports	..	..	..	..	..	..	All E.R.
Attorney-General	..	..	..	..	..	..	A.-G.
Brothers	..	..	..	..	..	..	Bros.
Company	..	..	..	..	..	..	Co.
Corporation	..	..	..	..	..	..	Corp'n.
Home Office	..	..	..	..	..	..	H.O.
Justices	..	..	..	..	..	..	JJ.
Limited	..	..	..	..	..	..	Ltd.
London County Council	..	..	..	..	..	..	L.C.C.
Local Government Act	..	..	..	..	..	..	L.G.A.
Medical Officer of Health	..	..	..	..	..	..	M.O.H.
Ministry of Agriculture and Fisheries	..	..	..	..	..	..	M. of A.
Ministry of Health	..	..	..	..	..	..	M. of H.
Ministry of Transport	..	..	..	..	..	..	M. of T.
Public Health Acts	..	..	..	..	..	..	P.H.A.
Railway Company	..	..	..	..	..	..	Rail. Co.
Rating and Valuation Act	..	..	..	..	..	..	R. & V.A.
Rural District Council	..	..	..	..	..	..	R.D.C.
Statutory Rules and Orders	..	..	..	..	..	..	S. R. & O.
Urban District Council	..	..	..	..	..	..	U.D.C.

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# ACT OF PARLIAMENT

STATUTES :—

Expiring Laws Continuance Act, 1943 - - - - - PAGE 1

## STATUTES

### THE EXPIRING LAWS CONTINUANCE ACT, 1943

(7 & 8 Geo. 6, c. 1)

*An Act to continue certain expiring laws.* [1]

[16th December, 1943.]

Whereas the Acts mentioned in the Schedule to this Act are, in so far as they are in force and are temporary in their duration, limited to expire—

- (a) as respects those mentioned in Part I of the said Schedule, on the thirty-first day of December nineteen hundred and forty-three, and
- (b) as respects that mentioned in Part II of the said Schedule, on the thirty-first day of March nineteen hundred and forty-four :

And whereas it is expedient to provide for the continuance, as in this Act mentioned, of those Acts and of the enactments amending or affecting the same :

Be it therefore enacted, etc. [2]

**1. Continuance of Acts in Schedule.**—(1) The Acts mentioned in Part I of the Schedule to this Act shall, to the extent specified in column three of that Part of that Schedule, be continued until the thirty-first day of December, nineteen hundred and forty-four. [3]

(2) The Act mentioned in Part II of the Schedule to this Act shall, to the extent specified in column three of that Part of that Schedule, be continued until the thirty-first day of March, nineteen hundred and forty-five. [4]

(3) Any unrepealed enactments which are temporary in their duration shall, in so far as they amend or affect any enactment continued by the foregoing provisions of this Act, be continued in like manner as that enactment whether they are mentioned in the Schedule to this Act or not. [5]

**2. Short title and application to Northern Ireland.**—(1) This Act may be cited as the Expiring Laws Continuance Act, 1943. [6]

(2) This Act shall apply to Northern Ireland in so far as it deals with any enactment relating to a subject with respect to which the Parliament of Northern Ireland has not power to make laws, but, save as hereinbefore provided, shall not apply to Northern Ireland. [7]

## SCHEDULE

## Section 1.

## PART I

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Session and Chapter.	Short title.	How far continued.	Amending Acts.
* *	* *	* *	* *
(5) 20 & 21 Geo. 5, c. 34.	The Coal Mines Act, 1930.	Part I . . .	1 & 2 Geo. 6, c. 52.
(6) 20 & 21 Geo. 5, c. 50.	The Public Works Facilities Act, 1930.	The following provisions, that is to say, section two, except the words "or statutory undertakers", wherever those words occur; in section three, the words from the beginning of the section to the word "undertaking"; section five; subsections (1) and (2) of section six; sections seven and eight; and the First Schedule except paragraph 2 of ]	—
* *	* *	* *	* *
(9) 24 & 25 Geo. 5, c. 50.	The Road Traffic Act, 1934.	Section one . .	1 Edw. 8 & 1 Geo. 6, c. 5.
* *	* *	* *	* *

[8]

\* \* \* \* \*

For the Coal Mines Act, 1930, Part I, see 23 Statutes 371; Public Works Facilities Act, 1930, see 23 Statutes 769; Road Traffic Act, 1934, s. 1, see 27 Statutes 535.  
As to the Public Works Facilities Act, 1930, note that s. 1, part of s. 3, and 2nd Schedule lapsed in 1935; see the Expiring Laws Continuance Act, 1935 (28 Statutes 349, 350).

# ACTIONS BY AND AGAINST LOCAL AUTHORITIES

CASES :—

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3

## CASES

*Tramways—Repair of road—Tramway abandoned by London Passenger Transport Board—Notice by highway authority of intention to remove tramway equipment—Fatal accident—Liability of highway authority for non-feasance—Tramways Act, 1870 (c. 78), ss. 25, 28—London Passenger Transport Act, 1933 (c. 14), s. 23 (2), (5), (7).*

The London Passenger Transport Board operated a tramway within the area of the defendant local authority. In 1938 the board abandoned the tramway and substituted a system of trolley buses. The local authority as the highway authority gave notice under the London Passenger Transport Act, 1933, s. 23 (5), of their intention to take up, remove and dispose of the tramway equipment and to make good the surface of the road. On April 2, 1941, a fatal accident was caused by the want of repair of the tramway track and this action was brought to recover damages in respect of that accident. The local authority admitted that they were responsible for the maintenance of the track at the time of the accident, but they contended that they were responsible only as a highway authority, and, therefore, were not liable for non-feasance :—

*Held:* (i) the abandoned tramway formed no part of the road proper, and the duty of the local authority, having undertaken the liability to remove it, was totally distinct from its duties as a highway authority. The doctrine of non-feasance was, therefore, not applicable. The want of repair amounted to a nuisance which it was the duty of the local authority to abate;

(ii) By deciding to allow the tramway plant to remain in the road, the local authority took a positive and active step which was the reverse of non-feasance ;

(iii) *Seemle*, until the expiration of the 3 months' notice provided for in s. 23 (2) of the Act, the tramway authority was liable in respect of third-party claims for damages.—SIMON v. ISLINGTON BOROUGH COUNCIL, [1943] K. B. 188; [1943] 1 All E. R. 41; 112 L. J. (K. B.) 337; 168 L. T. 65; 107 J. P. 59; 59 T. L. R. 87; 87 Sol. Jo. 92; 41 L. G. R. 51, C. A. [9]

## AIR-RAID PRECAUTIONS

*See, also, FIRE PROTECTION; HIGHWAYS; POLICE.*

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## STATUTES

### THE WAR DAMAGE ACT, 1943

(6 & 7 Geo. 6, c. 21)

#### PRELIMINARY NOTE

This Act consolidates the War Damage Act, 1941 (34 Statutes 450), the War Damage (Amendment) Act, 1942 (35 Statutes 275), and the War Damage (Amendment) Act, 1943. It repeals these three Acts except as far as they contained provisions relating to the War Risks Insurance Act, 1939.

The present Act has effect as if it had come into operation at the time of the passing of the 1941 Act, *i.e.* on March 26, 1941. It is therefore substituted for that Act with retrospective effect. All the regulations and orders under the earlier Acts which have not been revoked are deemed to have been made under the corresponding provision of the present Act, and continue in force. The sections here given are those which fall most clearly within the scope of this work. For the full text of the Act, see 36 Statutes 337, or Statutes Supplement 2 (2nd Edn.) to Butterworth's Emergency Legislation Service.

The consolidating Act does not make amendments of substance in the law, such amendments as were necessary having been made by the earlier amending Acts. Considerable arrangement and redrafting has however taken place. [10]

\* \* \* \* \*

*An Act to consolidate the War Damage Act, 1941, the War Damage (Amendment) Act, 1942, and the War Damage (Amendment) Act, 1943 (other than provisions thereof for amending the War Risks Insurance Act, 1939).* [11]

[3rd June, 1943.]

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**65. Remission of instalments on properties affected under Housing Acts by clearance or compulsory purchase, or demolition, orders.**—(1) Where as respects the year nineteen hundred and forty-two or any subsequent year the Commissioners of Inland Revenue are satisfied that the following conditions are fulfilled in the case of any contributory property which consists of a house or building and the site thereof, that is to say,—

(a) that at the beginning of that year the house or building was subject to a clearance order made under the Housing Act, 1936, which had been confirmed by the Minister of Health, to a compulsory purchase order which had been so confirmed made under that Act and relating to land comprised in a clearance area, or made in accordance with subsection (3) of section thirty-six of that Act, or to a demolition order made under that Act which had become operative; and

(b) that the house or building has not been occupied in whole or in part at any time during that year,

the Commissioners of Inland Revenue shall take no steps to recover any instalment of contribution falling due in respect of the property in that year unless and until they are satisfied that the condition specified in paragraph (b) of this subsection has ceased to be fulfilled or that the order has been quashed. [12]

(2) Any reference in this section to a house or building includes a reference to any yard, garden, outhouses and appurtenances belonging thereto or usually enjoyed therewith. [13]

(3) The reference in paragraph (a) of subsection (1) of this section of a house or building subject to a compulsory purchase order confirmed by the Minister of Health includes a reference to a house or building belonging to a local authority to which by virtue of section twenty-eight of the Housing



Act, 1936, the provisions of that Act apply as if it had been purchased by the authority as being land comprised in a clearance area. [14]

(4) (Application to Scotland.) [15]

(5) (Application to Northern Ireland.) [16]

This section repeats the provisions of para. 14 of the First Sched. to the War Damage (Amendment) Act, 1942. Sub-para. (2) has been split to form two sub-ss. (2) and (3). Sub-para. (3) and (4) accordingly become sub-ss. (4) and (5) respectively.

This section deals with contributions in respect of properties which are subject to certain Orders made under the Housing Act, 1936. For that Act, see 29 Statutes 565.

The section provides for suspension of the war damage contribution in respect of property which is subject to such an order and which is not occupied at any time during a year. In respect of any year in which it is occupied the war damage contribution is to be paid in the ordinary way notwithstanding the existence of one of these orders.

The section applies to three sorts of order :—

- (i) A clearance order, confirmed by the Minister of Health. See s. 26 of the Housing Act, 1936 (*op. cit.* 585).
- (ii) A compulsory purchase order, confirmed by the Minister of Health. This may be made under s. 29 of the Housing Act, 1936 (*op. cit.* 588), in connection with a clearance area, or under s. 36 (3) of that Act (*op. cit.* 594) in connection with a redevelopment plan. The amendment also applies to a house or building belonging to a local authority which is dealt with under s. 28 of the Housing Act, 1936 (*op. cit.* 587).
- (iii) A demolition order which has become operative. See s. 11 of the Housing Act, 1936 (*op. cit.* 574).

\* \* \* \* \*

**70. Land occupied for purposes of certain undertakings : payments and contributions.**—(1) If at the relevant date in any year any contributory property is occupied mainly or exclusively for the purpose of the carrying on of an undertaking to which this section applies, no instalment of contribution shall be payable for that year in respect of that property. [17]

(2) Such contributions towards the expense of making payments in respect of war damage shall be made in respect of properties to which subsection (1) of this section applies as Parliament may hereafter determine. [18]

(3) If immediately before the occurrence of war damage to a hereditament the hereditament is occupied mainly or exclusively for the purpose of the carrying on of an undertaking to which this section applies, no payment shall be made in respect of the damage under the preceding provisions of this Part of this Act, but—

- (a) such payments shall be made in respect of war damage to hereditaments as respects which this subsection has effect as Parliament may hereafter determine; and
- (b) the Commission may make to the persons carrying on the undertakings in question payments towards the cost of works certified by the appropriate department to be urgently required for meeting the circumstances created by war damage to hereditaments in respect of which this subsection has effect, and any payments so made shall be taken as made in part satisfaction of the payments to be made as mentioned in paragraph (a) of this subsection. [19]

(4) The undertakings to which this section applies are—

- (a) public utility undertakings;
- (b) except in so far as Parliament may hereafter determine, any undertaking of such a character that the valuation for rating purposes of hereditaments in which the undertaking is carried on is made by reference to the accounts, receipts, profits or output of the undertaking;
- (c) any other undertaking to which Parliament may hereafter determine that this section shall apply. [20]

(5) In this section the expression "public utility undertaking" means any of the following undertakings the carrying on of which is authorised by any enactment, scheme or order, that is to say any railway, light railway, tramway, trolley-vehicle, canal, inland navigation, dock, harbour, quay, pier, lighthouse, gas, electricity, hydraulic power, sewerage, sewage disposal, refuse disposal or water undertaking in the United Kingdom, and the undertaking of any drainage authority, except that any undertaking carried on by undertakers who carry on a railway undertaking being a public utility undertaking shall be deemed for the purposes of this section to be part of their railway undertaking. [21]

(6) In this section, the expression "appropriate department" means—

- (a) in relation to any railway, light railway, tramway, trolley-vehicle, canal, inland navigation, dock, harbour, quay, pier or lighthouse undertaking, the Minister of War Transport;
- (b) in relation to any gas or hydraulic power undertaking, and in relation to any mining or quarrying undertaking, the Minister of Fuel and Power;
- (c) in relation to any electricity undertaking, the Electricity Commissioners;
- (d) in relation to any sewerage, sewage disposal, refuse disposal or water undertaking, the Minister of Health;
- (e) in relation to the undertaking of a drainage authority, the Minister of Agriculture and Fisheries;
- (f) in relation to any other undertaking, such Government department as the Treasury may determine;

and the expression "drainage authority" has the same meaning as in the Land Drainage Act, 1930. [22]

(7) (Application to Scotland.) [23]

(8) (Application to Northern Ireland.) [24]

Sub-ss. (1) to (6) reproduce s. 40 of the War Damage Act, 1941.

Special legislation is contemplated to deal with war damage to land occupied by public utility and similar undertakings. That legislation will deal with payments or contributions to be made in respect of such undertakings, and with the basis of compensation for war damage.

Consultations have been held with the representative bodies concerned, and the general lines on which this legislation is to proceed have been agreed. See announcement of the Chancellor of the Exchequer on May 29, 1941, and the White Paper, Cmd. 6403, dated November, 1942.

**71. Highways ; payments and contributions.**—(1) No payment shall be made under the preceding provisions of this Part of this Act in respect of war damage to a highway maintainable at the public expense. [25]

(2) Payments shall be made by the Commission to highway authorities in accordance with, and subject to the provisions of, a scheme made by the Treasury, after consultation with such associations of local authorities as appear to them to be concerned, in respect of war damage to such highways as aforesaid occurring during the risk period, and contributions towards the expense of making such payments shall be made by the councils of counties and county boroughs at such rates and in such manner as may be provided by the scheme.

The contribution aforesaid shall be expenses for general county purposes as well in the case of the London County Council as of the councils of other counties. [26]

(3) The contributions aforesaid shall be payable by five interim annual instalments, becoming due in the year nineteen hundred and forty-one and each of the four subsequent years, and a final instalment. [27]

(4) The provision to be made by the scheme in relation to the contributions aforesaid shall be such as to secure, as nearly as may be, by reference to estimates of the relevant amounts—

(a) that the aggregate of the contributions shall bear to the payments made under subsection (2) of this section the same proportion as the net receipts of the Exchequer under the provisions of this Part of this Act (calculated in accordance with paragraphs (a), (b) and (c) of subsection (5) of section eighty of this Act) bear to the payments in respect of war damage made under the provisions of this Part of this Act (calculated as aforesaid); and

(b) that each interim instalment, and the final instalment, to be paid by the council of any county or county borough shall bear to the aggregate of the corresponding interim instalments, or of the final instalments, as the case may be, to be paid by all such councils, such proportion as may be prescribed by the scheme. [28]

(5) The scheme may provide for the payment by the Minister of War Transport, with the approval of the Treasury, to the councils of counties and county boroughs in Great Britain of grants in respect of the contributions to be made by them under this section not exceeding in the aggregate in the case of any council one half of the contributions to be made by that council.

Any grants paid by the Minister of War Transport under any provision made by the scheme under this subsection shall be defrayed out of the Road Fund. [29]

(6) The scheme may provide for the making by the Commission to highway authorities of payments in respect of war damage to roads, not being highways maintainable at the public expense, in cases in which works for the making good of war damage thereto are executed by such authorities; and where a payment has been, or is to be, made under the scheme in respect of any such works, the cost thereof shall not be the subject of a payment under the preceding provisions of this Part of this Act. [30]

(7) Nothing in the three last preceding subsections shall be construed as limiting the generality of the power conferred on the Treasury by virtue of subsection (2) of this section to make by the scheme such provision as to the payments and contributions therein mentioned as appear to them to be requisite. [31]

(8) A scheme made under this section may be amended by a subsequent scheme made thereunder. [32]

(9) A scheme made under this section shall be embodied in an order which shall be laid before the Commons House of Parliament as soon as may be after it is made and shall be of no effect until it has been approved by a resolution of that House. [33]

(10) The fact that works have been executed on a road by a highway authority as mentioned in subsection (6) of this section, or that a payment in respect of such works has been made under the scheme, shall not be treated as relevant for the purposes of the determination of any question arising as to whether the road is maintainable at the public expense. [34]

(11) In this section—

the expression "highway authority" does not include the Minister of War Transport;

the expression "highway maintainable at the public expense" means a highway repairable by the inhabitants at large or by a highway authority, and includes any bridge, viaduct or tunnel carrying a highway, and any pedestrian subway or pipe subway, being a

bridge, viaduct, tunnel or subway which is repairable by the council of a county, county borough, metropolitan borough or county district, by the Common Council of the City of London, by the mayor and commonalty and citizens of the City of London acting as trustees of the Bridge House Estates, or by the inhabitants of any locality ;

the expression "road" includes a footway and a bridle path, and includes any bridge or viaduct carrying a road ;

the expression "bridge" and "viaduct" respectively include the approaches thereto and the abutments thereof, and any works connected with, or ancillary to, the bridge or viaduct ;

the expression "tunnel" includes the approaches thereto and the abutments of such approaches, and any lifts or other works connected with, or ancillary to, the tunnel ;

the expression "pedestrian subway" includes the stairways thereof, the approaches thereto, any public convenience constructed therein, and any works connected with or ancillary to the subway ;

the expression "pipe subway" means any passage or covered way under a road constructed or adapted for the reception of, and affording convenient access to, any mains, pipes, tubes, cables, wires or apparatus, and includes any works connected with or ancillary to the subway. [35]

(12) For the purposes of this section—

(a) any embankment, embankment wall or retaining wall supporting a highway, and the sides of, and any retaining wall supporting, any cutting enclosing a highway ; and

(b) a place of refuge in a highway, a lamp, lamp post, or other materials or apparatus affixed on or near a highway for the purpose of illuminating it, and a traffic sign (as defined by subsection (9) of section forty-eight of the Road Traffic Act, 1930) placed on or near a highway either by a highway authority or in accordance with the provisions of a scheme under section eighteen of the Road Traffic Act, 1934 ;

shall be deemed to form part of the highway. [36]

(13) For the purposes of this section, the London County Council shall be deemed to be a highway authority as respects any highway repairable by the Council and as respects any bridge, viaduct, tunnel or subway repairable by the Council, whether the highway thereon or therein is or is not repairable by the Council. [37]

(14) References in this section to councils of counties shall be construed as including references to the Council of the Isles of Scilly, but contributions made under this section by the said Council shall be general expenses. [38]

(15) (Application to Scotland.) [39]

(16) (Application to Northern Ireland.) [40]

Sub-ss. (1) to (14) reproduce s. 41 of the War Damage Act, 1941.

See the War Damage (Highways Scheme) Order, 1943 (S. R. & O., 1943, No. 469), *post* ; the War Damage (Notification and Claims) (Highways) Regulations, 1943 (S. R. & O., 1943, No. 612), *post* ; and the War Damage (Highways) Contribution Regulations, 1943 (S. R. & O., 1943, No. 808), *post*.

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**74. Local authorities, etc. : exclusion from payments of grant-aided air raid shelters.**—(1) Works executed by a local authority for making good wa damage to an air-raid shelter (in this section referred to as "a shelter")

shall not be the subject of a payment of cost of works or of a temporary works payment—

- (a) if the shelter is a building or structure erected by a local authority as a shelter, in respect of the erection whereof a grant was payable to the local authority either under the Air Raid Precautions Act, 1937, or by the Minister of Home Security out of moneys provided by Parliament (otherwise than under section twenty-two of the Civil Defence Act, 1939); or
- (b) if the shelter is comprised in a building and there were executed by a local authority works (being works in respect of the execution whereof a grant was payable as aforesaid) for the purpose of the provision of the shelter, as far as regards works the purpose of the execution whereof is the provision of a shelter. [41]

(2) Works executed by a local authority for making good war damage to a shelter shall not be the subject of a payment of cost of works or of a temporary works payment if the shelter is a building or structure which was erected by any person wholly or mainly with materials provided on behalf of His Majesty under the Air Raid Precautions Act, 1937, free of charge. [42]

(3) No value payment shall be made in respect of a hereditament consisting of any such building or structure as is mentioned in paragraph (a) of subsection (1) of this section or in subsection (2) thereof, or which consists of a building or structure erected, wholly at the expense of the Board of Education, for the purpose of affording air raid shelter to pupils attending a school or educational institution, and so much (if any) of the value of a hereditament as is attributable to its comprising or being in the vicinity of—

- (a) a building or structure as to which the conditions specified in paragraph (a) or (b) of the said subsection (1) or in the said subsection (2) are satisfied; or
- (b) a building or structure erected, wholly at the expense of the Board of Education, for the purpose aforesaid; or
- (c) a shelter comprised in a building, being a shelter the works necessary for the provision whereof were executed wholly at the expense of the Board of Education,

shall be disregarded. [43]

(4) Any question arising in giving effect to the provisions of this section shall be determined by the Commission:

Provided that the provisions of subsection (3) of section thirty-two of this Act as to appeals to the High Court on questions of law shall have effect in relation to a determination of the Commission under this subsection as they have effect in relation to a determination of the Commission under that section. [44]

(5) In this section—

the expressions “air raid shelter” and “an air raid shelter” have the same meanings as in the Civil Defence Act, 1939;

the expression “local authority” means the Common Council of the City of London, the council of a metropolitan borough, the council of a county, county borough or county district, or the Council of the Isles of Scilly. [45]

(6) (Application to Northern Ireland.) [46]

Sub-ss. (1) to (5) reproduce s. 42 of the War Damage Act, 1941.

This section, which contains the provisions special to air-raid shelters, makes no special provision as to contributions. Contributions in respect of air-raid shelters are therefore governed by ordinary rules. Air-raid shelters are exempted from Sched. A (see the Finance



Act, 1938, s. 17; 31 Statutes 329). Air-raid shelters are also granted exemption from rates, and so will not be contributory properties or included in any contributory value (see s. 39 (1) and s. 40 (1)).

Appeals under the proviso to sub-s. (4) are governed by R.S.C., Ord. 55c, r. 3.

**75. Local authorities : payments and contributions in respect of certain transferred schools.**—(1) Where an elementary school has been transferred to the local education authority for elementary education under section thirty-eight of the Education Act, 1921, or under section twenty-three of the Elementary Education Act, 1870, and section twenty-five of the Second Schedule to the Education Act, 1902, or the authority has an interest in the premises of such a school under a lease granted whether by virtue of a scheme made under the Charitable Trusts Acts, 1853 to 1925, or otherwise, the Board of Education may, with the consent of the authority and of the trustees of the school, by order made as respects the whole or any part of the premises of the school direct that the provisions of this Part of this Act relating to the recovery and ultimate incidence of instalments of contributions, and to payments in respect of war damage thereunder, shall apply as if the premises of the school, or the part thereof to which the order relates, as the case may be, were vested in the authority for all the interest therein belonging to the trustees or otherwise held in trust for the school. [47]

(2) In relation to a case where the transfer or lease affects part only of the premises of the school, subsection (1) of this section shall apply as if the reference to the premises of the school were references to that part of the premises. [48]

(3) An order made under subsection (1) of this section may, with the consent of the authority and of the trustees, be revoked by an order of the Board of Education either as respects the whole or as respects any part of the land affected by the order revoked; and an order under the said subsection (1) shall cease to have effect on the termination of the rights of the authority under the transfer of the interest of the authority under the lease :

Provided that the revocation of the order, whether in whole or in part, or its ceasing to have effect, shall not affect any liability in respect of an instalment of contribution falling due in a year the relevant date in which fell before the time when the order was revoked or ceased to have effect, or any right to payment in respect of war damage occurring before that time. [49]

(4) An order made under subsection (1) of this section shall apply as well in relation to an instalment of contribution falling due in a year the relevant date in which fell between the transfer, or the commencement of the interest of the authority, as the case may be, and the date of the making of the order but not discharged at that date as in relation to an instalment of contribution falling due in a year the relevant date in which falls after that date. [50]

(5) An order made under this section shall, unless the contrary is shown, be presumed to have been made with the consent of the authority and trustees concerned. [51]

(6) In this section the expression "premises", in relation to a school, has the same meaning as in the Fourth Schedule to the Education Act, 1921; and where successive interests are granted to an authority without any interval between the termination of one and the commencement of the next, the successive interests shall be treated for the purposes of this section as one interest commencing at the commencement of the earliest interest. [52]

(7) (Application to Northern Ireland.) [53]

This section reproduces the provisions of para. 21 of Sched. I of the War Damage (Amendment) Act, 1942.

For the Education Act, 1921, s. 38, see 7 Statutes 151 and for the Charitable Trusts Acts, 1853 to 1925, see 2 Statutes 363 *et seq.*

## ORDERS, CIRCULARS AND MEMORANDA

### ORDER AMENDING REGULATIONS 54C, 55, 56A, 56AAA AND 56AB OF THE DEFENCE (GENERAL) REGULATIONS, 1939, AND REGULATION 3 OF THE DEFENCE (PALACE OF WESTMINSTER FIRE PREVENTION) REGULATIONS, 1941

*S. R. & O., 1943, No. 195*

*February 10, 1943*

In Regulations fifty-four C, fifty-five, fifty-six A, fifty-six AAA and fifty-six AB of the Defence (General) Regulations, 1939, and Regulation three of the Defence (Palace of Westminster Fire Prevention) Regulations, 1941, in any reference to the Minister of Works and Planning the words "and Planning" shall be omitted. [54]

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### ORDER IN COUNCIL ADDING REGULATION 23CAA TO THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1943, No. 744*

*May 20, 1943*

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His Majesty, in pursuance of the Emergency Powers (Defence) Acts, 1939 and 1940, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered that the Defence (General) Regulations, 1939, shall be amended by inserting after Regulation twenty-three C.A. the following Regulation :—

" 23CAA.—(1) No notice shall be served under subsection (1) of section sixteen of the Civil Defence Act, 1939 (which relates to notices requiring the provision of air-raid shelter for persons working or living in factory premises or commercial buildings or working in or about mines), without the consent of a Regional Commissioner ; and in deciding whether to give or withhold his consent under this paragraph a Regional Commissioner shall have regard to—

- (a) the extent to which labour or materials are available for providing the shelter ; and
- (b) the hours at which any substantial number of the persons working or living in the premises or building, or working in or about the mine, are ordinarily present in the premises or building or in or about the mine, and the likelihood of an air raid on the premises, building or mine occurring during those hours ;

and shall act in accordance with any special or general directions given by the Minister of Home Security.

(2) The said Minister may at any time by order cancel—

- (a) any such notice as is mentioned in paragraph (1) of this Regulation ;
- or

- (b) any notice served under subsection (2) of section fifteen of the said Act on a landlord, lessee or occupier of intention to provide an air-raided shelter in any factory premises or commercial building ;

whenever the notice was served, and whether an appeal against the notice under section seventeen of the said Act has or has not been brought or determined, if it appears to him that the provision of the shelter will be less conducive to the efficient prosecution of the war than the diversion to other purposes of the labour and materials required to provide it :

Provided that the Minister shall not cancel a notice under this paragraph if he is satisfied—

- (i) in the case of such a notice as is mentioned in paragraph (1) of this Regulation, by the person on whom the notice was served ; and
- (ii) in the case of a notice served under subsection (2) of the said section fifteen, by the person by whom the notice was served ;

that that person has begun to execute works for the purpose of providing the shelter to which the notice relates, being entitled so to do under subsection (3) of the said section seventeen or otherwise ". [55]

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## ORDER AMENDING REGULATION 29B OF THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1943, No. 911

June 30, 1943

1. For paragraph (2) of Regulation twenty-nine B of the Defence (General) Regulations, 1939 (which among other things gives power to require persons to remain in civil defence employment under local authorities and harbour authorities in the capacities to which the Regulation applies and, as extended by Regulation twenty-nine B.A of those Regulations, also gives power to require persons to enter such employment) there shall be substituted the following paragraph :—

"(2) This Regulation applies to any capacity as a member of any of the following civil defence services, that is to say, any ambulance, decontamination, first aid, messenger, report and control, rescue or warden service or any service combining any of the purposes of any such services as aforesaid." [56]

2. Sub-paragraph (b) of paragraph (5) of the said Regulation twenty-nine B is hereby revoked. [57]

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Note as to S. R. & O., 1943, No. 911.—This Order makes drafting amendments of which the principal purpose is to make it plain that Regulation 29B applies to cases in which the capacities mentioned are combined in one service as well as to cases in which each service is carried on separately. A subsidiary alteration is that services "carrying out functions relating to the extinction of fires exercisable by local authorities whether under the Civil Defence Acts, 1937 and 1939, or otherwise" are now omitted from the scope of the two Regulations in view of the absorption of the local fire brigades by the N.F.S. and the N.F.S. (Northern Ireland). The orders as to fire guards made under Regulations 26A and 27A are not affected by this Order.



## THE NATIONAL SERVICE (CIVIL DEFENCE) (DISCHARGE AND TRANSFER) REGULATIONS, 1943

*S. R. & O., 1943, No. 1473*

*October 12, 1943*

In pursuance of the powers conferred upon me by subsection (1) of section 3 of the National Service Act, 1941, I hereby make the following Regulations :—

1. The National Service (Civil Defence) (Discharge and Transfer) Regulations, 1942 (which prescribed the authority having power to discharge, transfer or give directions to, members of the Kent County Civil Defence Mobile Reserve or the West Sussex County Civil Defence Mobile Reserve, being civil defence forces), are hereby revoked. [58]

2. These Regulations may be cited as the National Service (Civil Defence) (Discharge and Transfer) Regulations, 1943. [59]

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## THE NATIONAL SERVICE (CIVIL DEFENCE FORCE) ORDER, 1943

*S. R. & O., 1943, No. 1474*

*October 12, 1943*

In pursuance of the power conferred on me by subsection (2) of section 12 of the National Service Act, 1941, I hereby order as follows :—

1. The National Service (Civil Defence Force) Order, 1942 (which declared the Kent County Civil Defence Mobile Reserve and the West Sussex County Civil Defence Mobile Reserve to be civil defence forces for the purposes of the National Service Act, 1941), is hereby revoked. [60]

2. This Order may be cited as the National Service (Civil Defence Force) Order, 1943. [61]

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## THE CIVIL DEFENCE (EMPLOYMENT AND OFFENCES) ORDER, 1943

*S. R. & O., 1943, No. 1475*

*October 12, 1943*

In pursuance of the powers conferred on me by Regulations 29B and 38 of the Defence (General) Regulations, 1939, I hereby order as follows :—

1. The Civil Defence (Employment and Offences) Order, 1941, the Civil Defence (Employment and Offences) (No. 5) Order, 1941, the Civil Defence (Employment and Offences) Order, 1942, the Civil Defence (Employment and Offences) (No. 3) Order, 1942, and the Civil Defence (Employment and Offences) (No. 5) Order, 1942 (which contain provisions as to continuance in employment, transfer, recall, performance of part-time duties, and to disobedience to lawful orders and absence), shall apply in relation to any civil

defence service which combines the purposes of a rescue service with any of the purposes of any of the following services, that is to say, any ambulance, decontamination, first aid, messenger, report and control, or warden service, as if the first mentioned service were a rescue service. [62]

2. This Order may be cited as the Civil Defence (Employment and Offences) Order, 1943. [63]

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## ALLOTMENTS

ORDERS, CIRCULARS AND MEMORANDA :—

PAGE  
Defence (General) Regulations, Regulations 61, 62A, 62AA, 100, 101, 102 amended 14

### ORDERS, CIRCULARS AND MEMORANDA

#### ORDER AMENDING REGULATIONS 61, 62A, 62AA, 100, 101 AND 102 OF THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1943, No. 743*

*May 20, 1943*

1. In Regulation sixty-one of the Defence (General) Regulations, 1939, for paragraphs (1A) and (2) (which penalise trespass on agricultural land in certain cases) there shall be substituted the following paragraph :—

“(2) If, without reasonable excuse, any person—

(a) trespasses on any land in the United Kingdom which is being used for the purpose of allotments ; or

(b) trespasses on any other land in the United Kingdom on which any crop is growing and thereby damages the crop or any part thereof ;

that person shall be guilty of an offence against this Regulation and liable on summary conviction to a fine not exceeding fifty pounds.” [64]

2.—(1) In paragraph (1) of Regulation one hundred of those Regulations (which contains general provisions as to the interpretation of the Regulations), after the definition of “ aircraft ”, there shall be inserted the following definition :—

“ ‘ allotment ’ includes an allotment garden, and ‘ allotment garden ’ has the same meaning as in the Allotments Act, 1922 ”.

(2) In paragraph (5) of Regulation one hundred and one of those Regulations (which contains general provisions as to the modification of the Regulations in their application to Scotland), after sub-paragraph (a), there shall be inserted the following sub-paragraph—

“(aa) in the definition of ‘ allotment garden ’ for the reference to the Allotments Act, 1922, there shall be substituted a reference to the Allotments (Scotland) Act, 1922 ”.

- (3) In Regulation one hundred and two of those Regulations (which contains general provisions as to the modification of the Regulations in their application to Northern Ireland), after paragraph (4) there shall be inserted the following paragraph :—

“(4A) The expression ‘allotment garden’ means an allotment to be cultivated by the tenant thereof.”

- (4) The provisions of those Regulations specified in the Schedule to this Order (being provisions rendered superfluous by the foregoing provisions of this Article) are hereby revoked. [65]

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### SCHEDULE

#### PROVISIONS REVOKED

1. In paragraph (2) of Regulation sixty-two A the words “the expression ‘allotment garden’ has the same meaning as in the Allotments Act, 1922, and ;” in paragraph (4) thereof the words from “for the reference to” to “and as if”; and sub-paragraph (a) of paragraph (5) thereof.

2. Paragraph (3) of Regulation sixty-two AA.

3. In the definition of “agricultural land” in paragraph (1) of Regulation one hundred, the words “including allotment gardens within the meaning of the Allotments Act, 1922”.

4. In the definition of “agricultural land” in paragraph (4) of Regulation one hundred and one, the words “including allotment gardens within the meaning of the Allotments (Scotland) Act, 1922”. [66]

## ANCIENT MONUMENTS

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### ORDERS, CIRCULARS AND MEMORANDA

#### THE ANCIENT MONUMENTS (PRESERVATION SCHEME CLAIM) REGULATIONS, 1943

*S. R. & O., 1943, No. 1437*

*October 1, 1943*

The Commissioners of H.M. Works and Public Buildings in pursuance of the powers conferred on them by paragraph 1 of the Second Schedule to the Ancient Monuments Act, 1931, hereby make the following Regulations :—

1. Claims for compensation in respect of a preservation scheme shall be made by notice in accordance with the form in the Schedule hereto. [67]

2. Every such notice of claim shall be signed by the Claimant or by a person duly authorised by the Claimant on his behalf and shall be delivered to the Commissioners of H.M. Works and Public Buildings at their Head Office. [68]

3. These Regulations may be cited as the Ancient Monuments (Preservation Scheme Claim) Regulations, 1943. [69]

4. These Regulations do not apply to Scotland. [70]

\* \* \* \* \*

## SCHEDULE

## ANCIENT MONUMENTS ACT, 1931

## PRESERVATION SCHEME 19....

NOTICE OF CLAIM for Compensation under Paragraph 1 of the Second Schedule to the Ancient Monuments Act, 1931.

THE PARTICULARS of my/our estate and interest in the property injuriously affected by the coming into force of the Scheme, and of the Claims made by me/us in respect thereof are as follows :—

- 
- (1) Name of Claimant  
Address  
Business or Description
  - (2) Situation and short description of the property, with plan if available
  - (3) Nature of Claimant's Interest ;  
(Freehold, leasehold, or yearly tenancy or other interest)  
If freehold ;  
(State whether absolutely or otherwise entitled), or  
If leasehold or a yearly tenancy or less  
(State Landlord's name, rent reserved, date of commencement and length of term, and how determinable)
  - (4) (a) Particulars of Mortgages or other charges or incumbrances affecting Claimant's Interest  
(b) The names and addresses of the Mortgagees, Chargees and Incumbrancers
  - (5) Particulars of :—  
(a) Existing exceptions of mines and minerals and any other exceptions  
(b) Covenants, restrictions, easements or other private rights to which the property is subject
  - (6) (a) Names of any Tenants of Claimant  
(State whether Lessees or yearly or other Tenants)  
(b) Total area let to each tenant  
(c) How much of each tenant's holding is affected by the Scheme  
(d) Particulars of tenancies (e.g. rent, length of term and date of commencement) in each case
  - (7) Particulars of :—  
(a) Land Tax. State assessment  
(b) Tithe Redemption Annuity or Corn Rent  
(c) Land Drainage rates. State assessment  
(d) Other outgoings for which Claimant is responsible, e.g. chief rent, fee farm rent

- (e) Liability to pay compensation for extinguishment of quit rents and other manorial incidents
- (f) Rights of the Lord of the Manor to minerals and sporting and other rights and names and addresses of the Lord and Steward
- (g) Rights of way and any other public rights or privileges to which the property is subject
- (8) Particulars of any Notices by a Public or Local Authority affecting the property
- (9) Detailed particulars of claim in respect of injurious affection to property, distinguishing the amount under separate heads and showing how the amount claimed under each head is calculated

Dated the                      day of                      19   .

Signature of Claimant

Name and address of Solicitor (if any)

Name and address of Surveyor (if any)

[71]

## ANIMALS

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## ORDERS, CIRCULARS AND MEMORANDA

### THE WILD BIRDS PROTECTION (COUNTY BOROUGH OF ST. HELENS) ORDER, 1943

*S. R. & O., 1943, No. 495*

*March 24, 1943*

In pursuance of the powers conferred on me by the Wild Birds Protection Acts, 1880 to 1939, and upon application by the Council of the County Borough of St. Helens, I hereby make the following Order :—

#### TITLE.

I. This Order may be cited as The Wild Birds Protection (County Borough of St. Helens) Order, 1943. [72]

## BIRDS.

*All Birds protected throughout the County Borough during the whole of the Year.*

II. During that period of the year to which the protection afforded by the Wild Birds Protection Act, 1880, does not extend, the killing or taking of Wild Birds is prohibited throughout the County Borough of St. Helens. [73]

*The House Sparrow deprived of Protection.*

III. The whole of the County Borough of St. Helens is hereby exempted from the operation of the Wild Birds Protection Act, 1880, so far as the House Sparrow is concerned. [74]

## EGGS.

*The Eggs of the Lapwing protected.*

IV. The taking or destroying of the eggs of the Lapwing (Peewit or Green Plover) is prohibited throughout the County Borough of St. Helens. [75]

\* \* \* \*

## THE WILD BIRDS PROTECTION (COUNTY BOROUGH OF HASTINGS) ORDER, 1943

*S. R. & O., 1943, No. 614*

*April 12, 1943*

In pursuance of the powers conferred on me by the Wild Birds Protection Acts, 1880 to 1939, and upon application by the Council of the County Borough of Hastings, I hereby make the following Order:—

1. This Order may be cited as “The Wild Birds Protection (County Borough of Hastings) Order, 1943.” [76]

2. The provisions of the Wild Birds Protection (County Borough of Hastings) Order, 1938, prohibiting the taking or destroying of Wild Birds’ Eggs in the areas defined in Clause VI of the said Order, shall have effect for a period of ten years (instead of five years) from the 14th day of April, 1938. [77]

\* \* \* \*

## THE WILD BIRDS PROTECTION (ADMINISTRATIVE COUNTY OF DEVON) ORDER, 1943

*S. R. & O., 1943, No. 889*

*June 16, 1943*

In pursuance of the powers conferred on me by the Wild Birds Protection Acts, 1880 to 1939, and upon application by the Council of the Administrative County of Devon, I hereby make the following Order:—

## TITLE.

1. This Order may be cited as “The Wild Birds Protection (Administrative County of Devon) Order, 1943.” [78]

## BIRDS.

*Close Time extended*

2. The time during which the killing or taking of Wild Birds is prohibited by the Wild Birds Protection Act, 1880, shall be extended throughout the Administrative County of Devon so far as the undermentioned species of Wild Birds are concerned so as to be between the 14th day of February and the 12th day of August in each year :—

Golden Plover,  
Snipe,

Woodcock.

[79]

*Certain Birds deprived of Protection.*

3. The Administrative County of Devon with the exception of the areas referred to in Article 6 of this Order is hereby exempted from the operation of the Wild Birds Protection Act, 1880, so far as the undermentioned Birds are concerned :—

Carrion Crow,  
Cormorant,  
Black-backed Gulls,  
Herring-Gull,  
Sparrow-Hawk,  
Jackdaw,  
Jay,

Magpie,  
Little Owl,  
Wood-Pigeon (Ring-Dove),  
Rook,  
Shag (Green Cormorant),  
House-Sparrow,  
Starling.

[80]

*Certain Birds protected during the whole of the Year and added to the Schedule to the Act of 1880.*

4. During that part of the year to which the protection afforded by the Wild Birds Protection Act, 1880, does not apply, the killing or taking of the undermentioned species of Wild Birds is prohibited throughout the Administrative County of Devon; and the Act shall apply to the undermentioned species that are not included in the Schedule to the Act in the same manner as if they were so included :—

Avocet,  
Bee-eater,  
Bitterns,  
Buntings,  
Buzzards,  
Chiffchaffs,  
Chough,  
Crakes,  
Crossbills,  
Cuckoos,  
Curlews,  
Dippers,  
Divers,  
Dotterel,  
Doves, except Wood-Pigeon  
(Ring-Dove),  
Sheld-Duck (Sheldrake,  
Burrow Duck),  
Dunlins,  
Eagles,  
Peregrine Falcon,  
Flycatchers,  
Godwits,  
Goldcrests,  
Goldfinch,

Grebes,  
Greenshank,  
Gulls, except Black-backed and  
Herring-Gulls,  
Harriers,  
Hawfinch,  
Night-Heron,  
Hobby,  
Hoopoe,  
Kestrel,  
Kingfisher,  
Kite,  
Knot,  
Larks,  
Martins,  
Merlin,  
Nightingale,  
Nightjars,  
Nuthatches,  
Nuthatch,  
Golden Oriole,  
Osprey,  
Ring-Ouzel,  
Owls, except Little Owl,  
Oyster-catcher,



Phalaropes,	Stints,
Pipits,	Stonechats,
Plovers, except Green and Golden	Swallow,
Plovers,	Swans,
Quail,	Swift,
Water-Rail,	Terns,
Raven,	Tits,
Redpolls,	Tree-creepers,
Redshanks,	Turnstone,
Redstarts,	Wagtails,
Roller,	Warblers,
Ruff and Reeve,	Waxwing,
Sanderling,	Wheatears,
Sandpipers,	Whinchat,
Shrikes,	Whitethroats,
Siskin,	Woodpeckers,
Tree-Sparrow,	Wrens,
Spoonbill,	Wryneck.
Rose-coloured Starling (or Pastor),	

[81]

*Protection of Birds on Sundays and Christmas Day.*

5. During that period of the year to which the protection afforded by the Wild Birds Protection Act, 1880, does not apply, the killing or taking of Wild Birds on Sundays and Christmas Day is prohibited throughout the Administrative County of Devon. [82]

*All Birds protected during the whole of the Year within certain Areas.*

6. During that period of the year to which the protection afforded by the Wild Birds Protection Act, 1880, does not apply, the killing or taking of Wild Birds is prohibited within the undermentioned areas :—

- (a) The area of Dawlish Warren and the Golf Links, and the land between the railway line and the estuary of the River Exe extending from Langstone Rock to Turf, and including the neighbouring water.
- (b) Wembury Point Sanctuary from the point opposite the Mewstone to approximately 500 yards east including Wembury Reef.

The above-mentioned areas are shown coloured blue on Maps deposited with the Clerk of the County Council and sealed with the seal of the Secretary of State and dated the 23rd day of July, 1940. [83]

**EGGS.**

*Certain Eggs protected throughout the County.*

7. The taking or destroying of the Eggs of the species of Wild Birds to which Clause 4 of this Order applies and of the Wild Birds undermentioned is prohibited throughout the Administrative County of Devon :—

Wild Duck,	Puffin,
Gannet,	Snipe,
Lapwing (Peewit, Green Plover),	Woodcock.

[84]

*All Eggs protected in certain Areas.*

8. The taking or destroying of the Eggs of any species of Wild Birds is prohibited within the following areas :—

- (i) Lundy Island and the neighbouring islets.
- (ii) Baggy Point district, situate in the parish of Georgeham, and bounded by the sea from the coast off Croyde Bay House to that

off Vention Cottages, and thence by the roads passing near Croyde village by way of Vention Lane, Stentaway Lane and Moor Lane, to the coast off Croyde Bay House.

- (iii) Clovelly district, being the parishes of Abbotsham, Alwington, Clovelly, Hartland, Parkham, Welcombe and Woolfardisworthy (West).
- (iv) Lynton district, being the parishes of Lynton and Countisbury.
- (v) Slapton Ley and Start district, being the parishes of Stokenham, Slapton and Blackawton.
- (vi) Bolt Head district, being the area from Bolt Head to Bolt Tail, bounded on the east and south-west by the sea, and on the north by the main road from Salcombe Harbour to Malborough and thence by the road leading from Malborough north of Bolberry to the coast-guard station at Bolt Tail.
- (vii) The area of Dawlish Warren and the Golf Links, and the land between the railway line and the estuary of the River Exe extending from Langstone Rock to Turf, and including the neighbouring water.
- (viii) Horsey Island in the parishes of Braunton and Heanton Punchardon and Sharper Marsh and adjacent ponds in the parish of Braunton.
- (ix) Wembury Point Sanctuary from the point opposite the Mewstone to approximately 500 yards east including Wembury Reef. [85]

*Repeal of former Order.*

9. The Order of the 23rd July, 1940, is hereby repealed. [86]

\* \* \* \* \*

## THE WILD BIRDS PROTECTION (ADMINISTRATIVE COUNTY OF CHESTER) AMENDING ORDER, 1943

*S. R. & O., 1943, No. 1258*

*August 23, 1943*

In pursuance of the powers conferred on me by the Wild Birds Protection Acts, 1880 to 1939, and upon application by the Council of the Administrative County of Chester, I hereby make the following Order :—

*Title.*

I. This Order may be cited as "The Wild Birds Protection (Administrative County of Chester) Amending Order, 1943." [87]

*All Grebes and their Eggs protected throughout the Year.*

II. During that period of the year to which the protection afforded by the Wild Birds Protection Act, 1880, as extended by Article II of the Wild Birds Protection (Administrative County of Chester) Order, 1941, does not apply, the killing or taking of any species of Grebe is prohibited throughout the Administrative County of Chester in addition to the species of Wild Birds named in Article IX of the said Order; and the taking or destroying of the Eggs of any species of Grebe is prohibited throughout the said County in addition to the Eggs of the species named in Article X of the said Order. [88]

\* \* \* \* \*

## THE WILD BIRDS (ADMINISTRATIVE COUNTY OF NORTHUMBERLAND) ORDER, 1943

*S. R. & O., 1943, No. 1787*

*December 29, 1943*

In pursuance of the powers conferred on me by the Wild Birds Protection Acts, 1880 to 1939, and upon application by the Council of the Administrative County of Northumberland, I hereby make the following Order :—

### TITLE.

1. This Order may be cited as “The Wild Birds (Administrative County of Northumberland) Order, 1943.” [89]

### ALL BIRDS DEPRIVED OF PROTECTION WITHIN A CERTAIN AREA.

2. That part of the Administrative County of Northumberland which is comprised within the area known as the Estate of Lordenshaws in the Rural District of Rothbury is hereby exempted from the operation of the Wild Birds Protection Act, 1880, for a period of one year commencing the 1st January, 1944. [90]

\* \* \* \*

## THE DESTRUCTION OF PEREGRINE FALCONS ORDER, 1943

*S. R. & O., 1943, No. 920*

*June 30, 1943*

In pursuance of the powers conferred on me by paragraph (4A) of Regulation 9 of the Defence (General) Regulations, 1939, I, Major the Right Honourable Sir Archibald Sinclair, Bt., K.T., C.M.G., M.P., Secretary of State for Air hereby make the following Order :—

1. The Destruction of Peregrine Falcons Order, 1940, shall have effect as if in addition to the areas specified in the Schedule thereto as extended by the Destruction of Peregrine Falcons (No. 2) Order, 1940, the Destruction of Peregrine Falcons Order, 1941, and the Destruction of Peregrine Falcons (No. 2) Order, 1941, there were included in the said Schedule the areas specified in the Schedule to this Order. [91]

2. This Order may be cited as the Destruction of Peregrine Falcons Order, 1943. [92]

### SCHEDULE

Lundy Island  
The County of Brecknock  
The County of Cardigan  
The County of Carmarthen  
The County of Flint  
The County of Glamorgan  
The County of Merioneth  
The County of Montgomery  
The County of Radnor

[93]

\* \* \* \*

## THE GREY SQUIRRELS ORDER, 1943

*S. R. & O.*, 1943, No. 1369*September 15, 1943*

In pursuance of Regulations 63 and 66 of the Defence (General) Regulations, 1939, the Minister of Agriculture and Fisheries (hereinafter referred to as "the Minister") hereby makes the following Order:—

1. The persons who are for the time being appointed by the Minister as members of the War Agricultural Executive Committee (hereinafter referred to as "the Committee") for any administrative county in England or Wales are authorised to exercise the powers of the Minister under Regulation 63 within that administrative county so far as is necessary for the purposes of this Order. [94]

2. If it appears to the Committee that, for the purpose of preventing damage to crops, trees, pasturage, fences, banks or works, it is expedient by Order to require, upon any land specified in the Order, the destruction of grey squirrels, they may by Order require any person having the right to carry out such destruction or killing or taking on that land to take, within such time as may be prescribed by the Order, such steps as may be necessary for that purpose, including such steps, if any, as may be specified in the Order; and if the Committee are satisfied that the requirements of any such Order have not been complied with, the Committee may (without prejudice to any proceedings which may be taken for failure to comply with those requirements) authorise any person or any class or description of persons to enter upon the land at any time and to take such steps as the Committee may direct for the purpose of carrying out the destruction, killing or taking required by the Order. [95]

3. The Committee may give such directions as appear to them to be expedient with respect to the disposal of any grey squirrels destroyed, killed or taken. [96]

4. Anything herein contained shall not be deemed to authorise the putting of any poison or poison ingredient on any land or to authorise the use of fire-arms for the purpose of killing grey squirrels between the expiration of the first hour after sunset and the commencement of the last hour before sunrise or be deemed to exempt any person from the provisions of the Gun Licence Act, 1870. [97]

5. This Order applies to England and Wales. [98]

6. The Orders mentioned in the Schedule hereto are hereby revoked. [99]

7. This Order may be cited as the Grey Squirrels Order, 1943. [100]

## SCHEDULE

The Killing of Grey Squirrels (Buckinghamshire) Order, 1940.

The Killing of Grey Squirrels (Southampton) Order, 1941.

The Killing of Grey Squirrels (Berkshire) Order, 1941.

The Killing of Grey Squirrels (West Sussex) Order, 1942.

The Killing of Grey Squirrels (East Sussex) Order, 1942.

The Killing of Grey Squirrels (Kent) Order, 1942.

The Killing of Grey Squirrels (Surrey) Order, 1942.

The Killing of Grey Squirrels (Oxfordshire) Order, 1942.

[101]

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## THE FOOT-AND-MOUTH DISEASE (INFECTED AREAS) (MODIFICATION OF RESTRICTIONS) ORDER, OF 1943

*S. R. & O., 1943, No. 66*

*January 6, 1943*

(6306).

The Minister of Agriculture and Fisheries, by virtue and in exercise of the powers vested in him under the Diseases of Animals Acts, 1894 to 1937, and of every other power enabling him in this behalf, hereby orders as follows :—

*Movement of animals from premises situate outside a Foot-and-Mouth Disease Infected Area to collecting centres situate within such an Area.*

1. Notwithstanding the provisions of Article 3 of the Foot-and-Mouth Disease (Infected Areas Restrictions) Order of 1938, animals may be moved from places or premises situate outside an Area declared by the Minister of Agriculture and Fisheries by a Special Order to be an Infected Area for the purpose of preventing the spreading of foot-and-mouth disease to a gathering of animals at a Collecting Centre within such Infected Area, if the holding of such gathering of animals has, by the granting of a licence under the Foot-and-Mouth Disease (Infected Areas Restrictions) Order of 1938, been authorised by the Local Authority.

Provided

- (i) that the collecting centre has been authorised by the Minister of Food for the reception of animals intended for immediate slaughter ;
- (ii) that no animal may be so moved except under the authority of a licence granted by an Inspector of the Local Authority of the district in which the collecting centre to which the animal is to be moved is situate ; and
- (iii) that no licence, authorising the movement of an animal to a collecting centre within an Infected Area from a place or premises situate outside such Area, shall be granted except to an Officer of the Ministry of Food, and then only on his application. [102]

*Form of Licences.*

2. Every licence issued in accordance with the provisions of this Order shall be in the form of the licence set forth in the First Schedule to the Foot-and-Mouth Disease (Infected Areas Restrictions) Order of 1938, and shall be made available for 6 days from the date of issue and no longer. Such licence shall not require counter-signature by any other Inspector. [103]

*Saving in respect of Movements out of an Infected Area.*

3. Nothing in this Order shall be deemed to authorise the movement of any animal from any place within one Infected Area to a place in another Infected Area. [104]

*Short Title and Construction.*

4. This Order may be cited as the Foot-and-Mouth Disease (Infected Areas) (Modification of Restrictions) Order of 1943 and shall be read with the Foot-and-Mouth Disease (Infected Areas Restrictions) Order of 1938. [105]

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## THE TRANSIT OF HORSES, ASSES AND MULES ORDER OF 1943

S. R. & O., 1943, No. 1460

October 11, 1943

(6332).

The Minister of Agriculture and Fisheries, by virtue and in exercise of the powers vested in him under the Diseases of Animals Acts, 1894 to 1937, and of every other power enabling him in this behalf, hereby orders as follows :—

### *Conveyance in Road Vehicles of Unfit Horses, Asses or Mules.*

1. No horse, ass or mule shall be permitted by the owner thereof, or his agent, or any person in charge thereof, to be carried in any road vehicle if, owing to infirmity, illness, injury, fatigue or any other cause, it cannot be so carried without unnecessary suffering. [106]

### *Notification by Inspectors of Unfitness of Horses, Asses or Mules for Conveyance in Road Vehicles.*

2. Where an Inspector is of the opinion that a horse, ass or mule intended to be carried in a road vehicle cannot, owing to infirmity, illness, injury, fatigue or any other cause, be so carried without unnecessary suffering, he may serve a Notice to that effect on the person in charge of the animal and thereupon until such Notice is withdrawn by an Inspector it shall be unlawful to carry the animal in a road vehicle otherwise than with the written authorisation of an Inspector and then only in accordance with such conditions (if any) as may be specified in the authorisation. [107]

### *Offences.*

3. Any person committing, or aiding, abetting, counselling or procuring the commission of any breach of the provisions of this Order, or of any Notice served thereunder, shall be liable, on summary conviction, to the penalties provided by the Diseases of Animals Acts, 1894 to 1937. [108]

### *Interpretation.*

4. In this Order "Inspector" means an Inspector of the Ministry or of a Local Authority. [109]

### *Commencement.*

5. This Order shall come into operation forthwith. [110]

### *Short Title and Construction.*

6. This Order may be cited as the Transit of Horses, Asses and Mules Order of 1943 and shall be read as one with the Exportation and Transit of Horses, Asses and Mules Order of 1921. [111]

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## APPROVED SCHOOLS

See INFANTS, CHILDREN AND YOUNG PERSONS.

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## BLIND PERSONS

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### STATUTES

#### THE PENSIONS AND DETERMINATION OF NEEDS ACT, 1943

(6 & 7 Geo. 6, c. 27)

#### PRELIMINARY NOTE

The Pensions and Determination of Needs Act, 1943, received the Royal Assent on July 6, 1943, but the main provisions of the Act do not come into operation until "the appointed day". This is defined by s. 7, *post*. With regard to certain provisions it is the date on which regulations to be framed for the purpose of giving effect to the Act come into force and, with regard to other provisions, it is such date as may be appointed by Order of the Minister of Health.

On June 17, 1942, the Chancellor of the Exchequer, on behalf of the Government, accepted a motion that, recognising that the difficulties of old age pensioners and widows had been accentuated by war-time conditions, an immediate examination by the Government of the existing position was welcomed, so that any necessary action could be taken without delay. An examination was subsequently made of the rates of supplementary pensions and unemployment assistance, and Regulations were issued providing for certain increases (the Unemployment Assistance (Determination of Need and Assessment of Needs) (Amendment) Regulations, 1942; S. R. & O., 1942, No. 1593). It was made clear in the debate on these Regulations (376 H. of C. Official Report 636) that the Government's examination of the problems was independent of the comprehensive proposals of the Beveridge plan. The present Act, accordingly, aims at effecting some improvements in detail in the system, as it existed prior thereto, without prejudicing consideration of the new system recommended by the Beveridge Report.

Two of the improvements, though important, are adjustments of detail, namely, (1) the amendment of the rules relating to the treatment of capital assets, which apply to supplementary pensions, to unemployment assistance, to financial assistance to the blind and to outdoor relief under the Poor Law (see ss. 1 and 2), and (2) the inclusion, in the classes of those eligible for supplementary pensions, of widows with contributory pensions, who are also in receipt of allowances for children, *irrespective* of age (see s. 4 (1)).

The Assistance Board is to have power under s. 4 (4) to make payments in respect of past need in certain cases. This is important because eligibility for supplementary pensions depends upon "being entitled to receive weekly payments", and until the basic pension is actually awarded this condition is not fulfilled. As there is normally a delay of about six weeks between the death of her husband, the date when the widow's pension begins to accrue, and the award of the pension, the Assistance Board can, under this section, make retrospective payments. Application for an old age pension is generally made before the applicant attains the age of 60, 65 or 70, but the Board is given a similar power to deal with cases where the decision to award the old age pension has been delayed owing to exceptional circumstances.

Of greater importance are the provisions of the Act contained in s. 3 (1), which apply the principles of the Determination of Needs Act, 1941, abolishing the household means test, to the granting of outdoor relief under the Poor Law and to the provision of financial assistance to the blind under the Blind Persons Acts, 1920 and 1938. The Determination of Needs Act, 1941, abolished the household means test as applied to supplementary pensions and unemployment, but left it in force



as regards outdoor relief under the Poor Law, and left it to the local authority to apply it or not, as they thought fit, in dealing with financial assistance to the blind. The old complaint against the household means test, that it led to the break-up of families, will no longer hold. Normally there will still be an obligation on those not in the household to assist, since the general provisions of ss. 14 and 19 of the Poor Law Act, 1930, are still in force. The rules contained in Schedule I to the Determination of Needs Act, 1941, will apply to members of households, who are applicants under this section, in the same way as they do to supplementary pensions, but any question which is left to be determined as a matter of discretion is to be determined by the appropriate authority under the Poor Law or Blind Persons Acts.

S. 3 (2) modifies the power under s. 19 (2) of the Poor Law Act, 1930, of making orders for the maintenance of poor persons against relatives, who are members of the same household, by providing that such an order for the maintenance of a poor person, who has attained the age of 16, may not be made against a member of the same household other than the husband or wife of the poor person.

S. 5 (1) provides that assistance granted by a local authority to a blind person under the Blind Persons Acts, 1920 and 1938, is not to be taken into account in computing his means for the purposes of a non-contributory old age pension. An increase in the assistance will thus not result in a reduction in the pension, and a source of irritation to local authorities and to blind persons will be removed. [112]

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*An Act to amend the law with respect to the treatment of capital assets and superannuation payments for the purpose of determination of needs, with respect to the relief, maintenance and assistance of members of a household under the Poor Law Acts and Blind Persons Acts and with respect to supplementary pensions, and to amend the Old Age Pensions Act, 1936, as respects the calculation of the means of blind persons and reciprocity with the Isle of Man.*

[113]

[6th July 1943.]

**1. Determination of needs (unemployment assistance, supplementary pensions and blind persons).—**(1) The maximum aggregate value of the money and investments treated as capital assets which are to be treated as equivalent to a specified weekly income by virtue of sub-paragraph (ii) of paragraph (d) of subsection (3) of section thirty-eight of the Unemployment Act, 1934, shall be increased from three hundred pounds to four hundred pounds, and the weekly income to which they are to be treated as equivalent shall be reduced from one shilling to sixpence for every complete twenty-five

pounds; and accordingly the said sub-paragraph (ii) shall have effect as if there were substituted for the words "three hundred" the words "four hundred" and for the words "one shilling" the word "sixpence".

In this subsection the reference to the said sub-paragraph (ii) shall be construed as a reference to that sub-paragraph both as originally enacted, and as applied by section two of the Blind Persons Act, 1920, as amended by section two of the Blind Persons Act, 1938, and as applied by subsection (3) of section ten of the Old Age and Widows' Pensions Act, 1940. [114]

(2) The amount of a superannuation payment to be disregarded by virtue of paragraph (f) of subsection (3) of section thirty-eight of the Unemployment Act, 1934 (as modified by the Second Schedule to the Old Age and Widows' Pensions Act, 1940) in computing the resources of any person for the purpose of determining the need and assessing the needs of an applicant for a supplementary pension shall be the first ten shillings and sixpence a week, instead of the first seven shillings and sixpence a week, of the payment:

Provided that, where the resources of any applicant include two or more such payments (whether receivable by the applicant or any other person or persons), the amount of those payments to be disregarded by virtue of the said paragraph (f) shall not be more than the first ten shillings and sixpence a week of the aggregate amount of those payments. [115]

(3) The foregoing provisions of this section shall come into operation on the appointed day, but within one month from the passing of this Act—

(a) draft regulations for the purpose of complying with the requirements of subsection (1) of this section, in so far as it relates to unemployment assistance, shall be prepared, submitted and made in accordance with the provisions of subsection (2) of section fifty-two of the Unemployment Act, 1934; and

(b) draft regulations for the purpose of complying with the requirements of the said subsection (1), in so far as it relates to supplementary pensions, and of subsection (2) of this section shall be prepared, submitted and made in accordance with the provisions of subsection (2) of the said section fifty-two as applied by subsection (3) of section ten of the Old Age and Widows' Pensions Act, 1940;

and as soon as may be after such draft regulations have been made the provisions of subsections (3) and (4) of the said section fifty-two (which relate to the laying of such drafts and of documents relating thereto before Parliament and to the making of regulations after approval by Parliament), or of those subsections as applied as aforesaid, shall be complied with in relation thereto. [116]

(4) Where an allowance under Part II of the Unemployment Act, 1934, or a supplementary pension under Part II of the Old Age and Widows' Pensions Act, 1940, is payable to a person under a determination granting such an allowance or supplementary pension in force immediately before the appointed day, then, at any time during the three months beginning on that date an allowance or supplementary pension may be paid to him in accordance with that determination until a further determination as to his need can be made. [117]

S. 38 (3) (d) of the Unemployment Act, 1934 (27 Statutes 790), provided that, in computing the resources of the applicant for an allowance under that Act, all money and investments treated as capital assets should, where not exceeding £25, be disregarded and, where exceeding £25 but not exceeding £300, be treated as equivalent to a weekly income of 1s. for every complete £25. The present subsection provides for an increase from £300 to £400 in the sum to be treated as equivalent to a notional weekly income, and a reduction from 1s. to 6d. in the notional weekly income deemed to be derived from each £25 of the capital sum of £400 after the first £25. S. 2 of the Blind Persons Act, 1920 (20 Statutes 593) as amended by s. 2 of the Blind Persons Act, 1938 (31 Statutes 812) extended to blind persons applying to local authorities for financial assistance under those Acts, s. 38 (3) (d) (i) of the Unemployment Act, 1934, in

computing the applicant's capital and notional weekly income. By s. 10 (3) of the Old Age and Widows' Pensions Act, 1940 (33 Statutes 517) the provisions of s. 38 (3) (d) (ii) of the Unemployment Act, 1934, were, with the modifications contained in the Second Schedule to the Act of 1940 (*ibid.*, 525), extended to include the computation of capital and income of applicants for supplementary old age pensions and supplementary widows' pensions.

By s. 38 (3) (f) of the Unemployment Act, 1934 (27 Statutes 790), as modified by Sched. II to the Old Age and Widows' Pensions Act, 1940 (33 Statutes 525), the first 7s. 6d. a week of any superannuation payment in respect of previous service or employment from which the recipient had retired or resigned (whether payable by a former employer or not) not being a payment on account of an old age pension, as defined by s. 19 (1) of the Act of 1940 (*ibid.*, 521), was disregarded, in determining the need of an applicant for an allowance thereunder and assessing his needs. By the present subsection the amount to be disregarded is increased from 7s. 6d. a week to 10s. 6d., with a proviso that, where the applicant's resources include two or more such payments, the amount to be disregarded shall not exceed the first 10s. 6d. a week of the aggregate amount of these payments.

As to the "appointed day", see s. 7, *post*.

By s. 52 (2) of the Unemployment Act, 1934 (27 Statutes 790) it was provided that the Board, i.e. the Assistance Board, shall from time to time as occasion may require draft regulations for the purpose of s. 38 (3) of the Act, which are to be considered by the Minister, who is to make draft regulations either in the form of the draft or subject to such variations and amendments as he thinks fit. That power is applied in relation to old age pensions by s. 10 (3) of the Old Age and Widows' Pensions Act, 1940 (33 Statutes 517).

Draft regulations were laid before Parliament as required by sub-s. (3) hereof, and duly approved by resolutions of both Houses. The following regulations were made in the terms of the drafts so approved: Unemployment Assistance (Determination of Need and Assessment of Needs) Regulations, 1943 (S. R. & O., 1943, No. 1186); Supplementary Pensions (Determination of Need and Assessment of Needs) Regulations, 1943 (S. R. & O., 1943, No. 1193).

Under s. 4 of the Determination of Needs Act, 1941 (34 Statutes 436) the Assistance Board was allowed two months to review existing cases. Under sub-s. (4) of the present section the time limit granted is three months.

**2. Determination of needs (outdoor relief).—**(1) The maximum aggregate value of the money and investments treated as capital assets which may be treated, in granting outdoor relief, as equivalent to a specified weekly income by virtue of sub-paragraph (ii) of paragraph (c) of subsection (1) of section one of the Transitional Payments (Determination of Need) Act, 1932, shall be increased from three hundred pounds to four hundred pounds, and the weekly income to which they may be treated as equivalent shall be reduced from one shilling to sixpence for every complete twenty-five pounds; and accordingly the said sub-paragraph (ii) shall have effect as if there were substituted for the words "three hundred" the words "four hundred" and for the words "one shilling" the word "sixpence". [118]

(2) This section shall come into operation on the appointed day. [119]

S. 1 (1) (c) of the Transitional Payments (Determination of Need) Act, 1932 (25 Statutes 947), which is applied to outdoor relief (see notes to s. 3, *infra*) by s. 1 (2) thereof, provides that in computing the resources of an applicant the first £25 of capital assets shall be disregarded, and assets exceeding £25 but not exceeding £300 shall be treated as equivalent to 1s. a week income for every complete £25. The present section provides for an increase from £300 to £400 in the sum to be treated as equivalent to a notional weekly income, and reduces the notional weekly equivalent from 1s. to 6d. per £25 of capital.

As to the appointed day, see s. 7, *post*.

**3. Determination of resources and needs of members of household (poor law and blind persons).—**(1) For any purpose connected with—

- (a) the granting of outdoor relief under the Poor Law Acts, 1930 to 1938; or
- (b) the provision of financial assistance under section two of the Blind Persons Act, 1920, as amended by section two of the Blind Persons Act, 1938;

the resources and needs of the person to be relieved or the blind person, as the case may be, shall, if that person is a member of a household, be determined in conformity with the rules set out in the First Schedule to the Determination of Needs Act, 1941, as they apply in relation to an applicant for a supplementary pension under Part II of the Old Age and Widows' Pensions Act, 1940:

Provided that—

- (i) nothing in those rules shall be construed as restricting, save as therein expressly provided, the discretion of the appropriate authority under the Poor Law Acts, 1930 to 1938, or the Blind Persons Acts, 1920 and 1938, to determine any question arising under those Acts, or as affecting the procedure for determining any such question ;
- (ii) any question to be determined for the purposes of those rules by any prescribed person or authority shall, instead of being so determined, be determined by the appropriate authority aforesaid ; and
- (iii) the rules contained in paragraph 2 and in sub-paragraph (a) of paragraph 3 of the said Schedule shall not apply in any case of financial assistance under the Blind Persons Acts, 1920 and 1938, unless the appropriate authority so determine. [120]

(2) If and so long as any two persons, of whom one (hereafter referred to as the "poor person") has attained the age of sixteen and the other is not the wife or husband of the poor person, are treated for the purposes of subsection (1) of this section as being members of the same household in determining the resources or needs of the poor person for any purpose connected with the granting of outdoor relief to him under the Poor Law Acts, 1930 to 1938, no order for the maintenance of the poor person under subsection (2) of section nineteen of the Poor Law Act, 1930, shall be made or enforced against that other person. [121]

(3) The provisions of this section shall come into operation on the appointed day. [122]

The Poor Law Acts, 1930 to 1938, are the Poor Law Act, 1930 (12 Statutes 968) ; Poor Law Act, 1934 (27 Statutes 457) ; Poor Law (Amendment) Act, 1938 (31 Statutes 553). Outdoor relief is governed by the Relief Regulation Order, 1930 (S. R. & O., 1930, No. 186) (12 Statutes 1090), amended by the Relief Regulation (Amendment) Order, 1932 (S. R. & O., 1932, No. 631) (25 Statutes 461), and the Relief Regulation (Amendment) Order (No. 2, 1940) (S. R. & O., 1940, No. 1765).

By s. 2 of the Blind Persons Act, 1920 (20 Statutes 593), as amended by s. 2 of the Blind Persons Act, 1938 (31 Statutes 812), in determining the needs of an applicant for financial assistance thereunder, there are taken into account not only the needs of the blind applicant but also of any members of the household, of which he is a member, who are dependent on him, and there must also be compliance with the rules laid down in the Unemployment Act, 1934, s. 38 (3) (a) to (e) (27 Statutes 790) regarding certain assets of the applicant to be disregarded in computing his resources.

Rule 1 of the rules set out in Sched. I to the Determination of Needs Act, 1941 (34 Statutes 438) abolished the household means test in determining the need and assessing the needs of applicants for unemployment assistance under the Unemployment Assistance Act, 1934 (27 Statutes 790) and for supplementary pensions under the Old Age and Widows' Pensions Act, 1940 (33 Statutes 511). This test, however, remained in force with regard to applications for outdoor relief under the Poor Law Acts, 1930 to 1938. Under the Blind Persons Acts, 1920 and 1938, the appropriate authority could apply the test or not, at its discretion, in dealing with applications by blind persons for financial assistance.

The present section abolishes the test in connection with the granting of outdoor relief under the Poor Law Acts, 1930 to 1938, and of financial assistance to the blind under the Blind Persons Acts, 1920 and 1938, and applies the other rules contained in Sched. I to the Determination of Needs Act, 1941, subject however to provisos (i)–(iii) preserving the discretion of the appropriate authorities.

S. 19 (2) of the Poor Law Act, 1930 (12 Statutes 980), which is excluded by sub-s. (2) in certain circumstances, deals with power to obtain maintenance orders.

As to the appointed day, see s. 7, *post*.

**4. Supplementary pensions (widows with children and date of commencement).—**(1) A widow (not being a blind person) who is entitled to receive weekly payments on account of a widow's pension and to whom an additional allowance in respect of a child is payable as part of that pension, shall be eligible for a supplementary pension under Part II of the Old Age and Widows' Pensions Act, 1940 ; and the provisions of the said Part II shall apply accordingly :

Provided that in the application of the provisions of the said Part II to a widow who is eligible for a supplementary pension by virtue of this subsection—

- (a) for any reference to the third day of August, nineteen hundred and forty (being the first day after which supplementary pensions became payable thereunder) there shall be substituted a reference to the appointed day; and
- (b) for any reference to the second day of August, nineteen hundred and forty, there shall be substituted a reference to the day before the appointed day. [123]

(2) Where, at the time when an additional allowance in respect of a child ceases to be payable to a widow as part of her widow's pension, a determination is in force granting her a supplementary pension by virtue of the foregoing subsection, she shall continue to be eligible for a supplementary pension unless and until either—

- (a) she ceases to be entitled to receive weekly payments on account of the widow's pension; or
- (b) that or some other determination granting her a supplementary pension ceases to be in force without having been replaced by a new determination granting her a supplementary pension. [124]

(3) The provisions of the Eighth Schedule to the Unemployment Act, 1934, as set out with modifications in the Second Schedule to the Old Age and Widows' Pensions Act, 1940 (which deal with the inter-relation of poor relief and supplementary pensions), shall have effect subject to the amendments set out in the First Schedule to this Act, being amendments consequential on the foregoing provisions of this section. [125]

(4) Where a supplementary pension is granted to any person on an application made before the expiration of one month from the date on which that person becomes eligible therefor, there may be made, in respect of any period after the date when an old age pension or widow's pension began to accrue to that person and before the date when the person became entitled to receive weekly payments on accounts thereof, such addition to the supplementary pension as appears reasonable, but not exceeding the amount of any supplementary pension which would have been granted in respect of that period :

Provided that, in the case of a widow, no such addition shall be made in respect of any period during which she has not attained the age of sixty and in respect of which no additional allowance in respect of a child is paid to her as part of her pension. [126]

(5) This section shall be construed as one with Part II of the Old Age and Widows' Pensions Act, 1940. [127]

A widow only becomes "entitled to receive weekly payments" when the basic pension has actually been awarded. Under s. 9 of the Old Age and Widows' Pension Act, 1940 (33 Statutes 517) a widow, not being a blind person, was eligible for a supplementary pension, only if entitled to receive weekly payments on account of a widow's pension and aged 60. Sub-s. (1) gives supplementary allowances to widows under 60 to whom an additional allowance in respect of a child is payable. Consequential amendments are made by sub-s. (1) to ss. 9 (6), 13 and 14 of the Act of 1940 (33 Statutes 517, 519), and by sub-s. (3) and Sched. 1, *post*, to Sched. II of the Act of 1940 (*ibid.*, 525).

As to the appointed day, see s. 7, *post*.

The object of sub-s. (2) is to render it unnecessary for a widow, who has obtained a supplementary pension under sub-s. (1), to go back to public assistance, owing to the withdrawal of the supplementary pension, when the children pass out of the category in which allowances are paid on their behalf. Under this subsection she may remain eligible for the supplementary pension.

The Assistance Board had, prior to this Act, no power to meet need retrospectively. Sub-s. (4) gives them power to grant reasonable additions to the supplementary pension when necessary in respect of the period before the award of the basic pension was made.

### 5. Non-contributory old age pensions (blind persons and Isle of Man).—

(1) In calculating under the First Schedule to the Old Age Pensions Act, 1936, the means of a person who is a blind person, or who is the husband or wife of a blind person, no account shall be taken of any financial assistance provided by or by arrangement with a local authority under section two of the Blind Persons Act, 1920, as amended by section two of the Blind Persons Act, 1938.

In this subsection the expression "blind person" has the same meaning as it has for the purposes of the Old Age Pensions Act, 1936, and the expression "financial assistance" does not include earnings. [128]

(2) For the purpose of giving effect to any arrangements made between the Treasury and the appropriate authority in the Isle of Man for securing between Great Britain and the Isle of Man reciprocity in relation to non-contributory old age pensions similar to that which exists between Great Britain and Northern Ireland, the Treasury may by order direct that, as from such date as may be specified in the order, the provisions of the Old Age Pensions Act, 1936, specified in the first column of the Second Schedule to this Act shall have effect subject to the amendments specified in the second column of that Schedule. [129]

The calculation of means under Sched. I to the Old Age Pensions Act, 1936 (29 Statutes 1062), is modified, in relation to blind persons, by the exclusion of financial assistance provided under s. 2 of the Blind Persons Act, 1920, as amended by s. 2 of the Blind Persons Act, 1938 (20 Statutes 593; 31 *ibid.*, 812).

Under s. 2 (4) of the Old Age Pensions Act, 1936 (29 Statutes 1053), blind person means "a person so blind as to be unable to perform any work for which eyesight is essential" (cf. Blind Persons Act, 1920, s. 1; 20 Statutes 593).

Under the present section financial assistance granted by a local authority to a blind person will, like the supplementary pension, be given to bring the pension up to what is required for the needs of the blind person and his dependants. Consequently an increase in the financial assistance will not result in a corresponding decrease in the pension.

Under sub-s. (2), when the necessary Order is made, persons born in the Isle of Man will be able, as from the date specified in the Order, to obtain pensions under conditions similar to those which apply to persons born in Great Britain and living in the Isle of Man.

**6. Expenditure out of moneys provided by Parliament.**—There shall be defrayed out of moneys provided by Parliament any increase in the sums payable out of such moneys under or by virtue of Part II of the Unemployment Act, 1934 (as amended by the Determination of Needs Act, 1941), the Old Age Pensions Act, 1936, or Part II of the Old Age and Widows' Pensions Act, 1940, which is attributable to the passing of the provisions of this Act relating to—

- (a) the manner in which money and investments treated as capital assets are to be treated under sub-paragraph (ii) of paragraph (d) of subsection (3) of section thirty-eight of the Unemployment Act, 1934, or under that sub-paragraph as applied by section ten of the Old Age and Widows' Pensions Act, 1940;
- (b) the manner in which superannuation payments are to be treated under paragraph (f) of the said subsection (3) as applied by the said section ten;
- (c) the payment of supplementary pensions to widows to whom an additional allowance in respect of a child is payable as part of a widow's pension, and the continuance of such supplementary pensions after the said allowance ceases to be so payable;
- (d) additions to a person's supplementary pension in respect of periods after an old age or widow's pension began to accrue to that person but before the person becomes entitled to receive weekly payments on account thereof;
- (e) the calculation of the means of a blind person, or the husband or wife of a blind person, under the Old Age Pensions Act, 1936; or



- (f) the amendment of the last-mentioned Act in connection with the making of reciprocal arrangements thereunder with the Isle of Man. [130]

**7. Definition of "appointed day".**—For the purpose of any provision of this Act the expression "the appointed day" has the following meaning:—

- (a) if and in so far as the provision relates to allowances under Part II of the Unemployment Act, 1934, it means the date on which regulations made under section fifty-two of that Act for the purpose of complying with the requirements of subsection (1) of section one of this Act take effect in accordance with the provisions of subsection (4) of the said section fifty-two;
- (b) if and in so far as the provision relates to supplementary pensions under Part II of the Old Age and Widows' Pensions Act, 1940, it means the date on which regulations made under the said section fifty-two as applied by subsection (3) of section ten of that Act for the purpose of complying with the requirements of subsections (1) and (2) of section one of this Act take effect under subsection (4) of the said section fifty-two as so applied;
- (c) if and in so far as the provision relates to financial assistance under section two of the Blind Persons Act, 1920, as amended by section two of the Blind Persons Act, 1938, it means such date as may be appointed by order of the Minister of Health;
- (d) if and in so far as the provision relates to outdoor relief or maintenance under the Poor Law Acts, 1930 to 1938, it means such date as may be appointed by order of the Minister of Health. [131]

The "appointed day" is as follows:

*Para. (a).*—August 30, 1943 (Unemployment Assistance (Determination of Need and Assessment of Needs) Regulations, 1943 (S. R. & O., 1943, No. 1186), Reg. 1 (1)).

*Para. (b).*—In relation to pensioners of any class the first day after August 30, 1943, prescribed as the day of the week for payment of supplementary pensions to pensioners of that class (Supplementary Pensions (Determination of Need and Assessment of Needs) Regulations, 1943 (S. R. & O., 1943, No. 1193), Reg. 1 (1)).

*Paras. (c) and (d).*—November 1, 1943 (Pensions and Determination of Needs Act, 1943 (Appointed Day) Order, 1943 (S. R. & O., 1943, No. 1238)).

## 8. Application to Scotland. [132]

**9. Short title and extent.**—(1) This Act may be cited as the Pensions and Determination of Needs Act, 1943. [133]

(2) This Act shall not extend to Northern Ireland. [134]

## SCHEDULES

### FIRST SCHEDULE

### Section 4.

CONSEQUENTIAL AMENDMENTS OF THE EIGHTH SCHEDULE TO THE UNEMPLOYMENT ACT, 1934, AS SET OUT WITH MODIFICATIONS IN THE SECOND SCHEDULE TO THE OLD AGE AND WIDOWS' PENSIONS ACT, 1940

1. At the end of Part I (which deals with the commencement of the Schedule) there shall be added the words "or, in the case of pensioners being widows who have not attained the age of sixty, the first date on which supplementary pensions became payable to such pensioners".

2. In Part II and in Part III, for sub-paragraph (a) of paragraph 1 (which prohibits the giving of outdoor relief to persons eligible for supplementary pensions) there shall be substituted the following sub-paragraph:—

"(a) to any person during any period in respect of which an old age or widow's pension is payable to that person except—

- (i) during any period after the date when the pension began to accrue to that person but before the date on which the person becomes entitled to receive weekly payments on account thereof; or



(ii) in the case of a widow's pension, during any other period during which she is not eligible for a supplementary pension ”.

3. In Part II and in Part III, for sub-paragraph (a) of paragraph 2 (which provides for the payment by the Assistance Board of the cost of certain relief) there shall be substituted the following sub-paragraph :—

“(a) the cost of any outdoor relief (not being relief in respect of medical needs) lawfully given after the commencement of this Schedule to any person during any such period as is mentioned in sub-paragraph (a) (i) of the foregoing paragraph, other than relief given to a widow during a period during which she has not attained the age of sixty and in respect of which no such additional allowance in respect of a child is paid to her as part of her pension ”. [135]

#### Section 5.

#### SECOND SCHEDULE

AMENDMENTS OF OLD AGE PENSIONS ACT, 1936, IN RELATION TO ISLE OF MAN

##### Provision amended

##### Amendments

Subsection (2) of section two

In paragraph (b) the words “ or the Isle of Man ” shall be omitted ; and at the end of the subsection there shall be added the following sentence : “ For the purposes of this section the Isle of Man shall be treated as if it were part of the United Kingdom ”.

Subsection (2) of section four

After the words “ Northern Ireland ” there shall be inserted the words “ or in the Isle of Man ”.

Subsection (2) of section five

After the words “ Northern Ireland ” there shall be inserted :—

(a) where they first occur, the words “ or in the Isle of Man ” ;

(b) where they secondly occur, the words “ or the appropriate authority in the Isle of Man, as the case may be ”.

[136]

## ORDERS, CIRCULARS AND MEMORANDA

### THE PENSIONS AND DETERMINATION OF NEEDS ACT, 1943 (APPOINTED DAY) ORDER, 1943

*S. R. & O.*, 1943, No. 1238

*August 17, 1943*

108673.

The Minister of Health in exercise of his powers under section 7 of the Pensions and Determination of Needs Act, 1943, and of all other powers enabling him in that behalf hereby makes the following order :—

1. This order may be cited as the Pensions and Determination of Needs Act, 1943 (Appointed Day) Order, 1943. [137]

2. The appointed day for the purpose of such of the provisions of the Pensions and Determination of Needs Act, 1943, as relate to (i) financial assistance under section 2 of the Blind Persons Act, 1920, as amended by section 2 of the Blind Persons Act, 1938, and (ii) outdoor relief or maintenance under the Poor Law Acts, 1930 to 1938, shall be the first day of November, 1948. [138]

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## CANALS

CASES :—

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## CASES

*Statutes—Interpretation—Construction of general provisions—Act of God—Peak Forest Canal Act, 1794, s. 15.*

The appellants are the owners of a canal which crosses a valley at the top of a high embankment. On June 22, 1941, as the result of a violent storm, the embankment collapsed, and a great quantity of water escaped from the canal into the stream below and was carried down to the respondents' mill where it was deposited together with a large number of stones. The canal was constructed in pursuance of powers conferred on the proprietors by the Peak Forest Canal Act, 1794, and s. 15 of the Act imposes liability for injury caused by water flowing from the canal or "from any other accident." The respondents, in claiming damages, said that the Act imposed an absolute liability on the appellants, irrespective of negligence. The appellants contended that the construction of the earlier words in s. 15 of the Act must be governed by the succeeding phrase "or from any other accident," and that liability was, therefore, limited to an escape due to accident and that an escape of water due to an act of God was not within the section :—

*Held* : the Act of 1794 imposed a liability for damages on the appellants even if such damage was caused by an act of God.

*Decision of* ATKINSON, J. ([1943] 1 All E. R. 362) *affirmed*.—J. AND J. MAKIN, LTD. v. LONDON AND NORTH EASTERN RY. CO., [1943] K. B. 467; [1943] 1 All E. R. 645; 112 L. J. (K. B.) 513; 168 L. T. 394; 59 T. L. R. 307, C. A. [139]

## CATCHMENT BOARDS

*See* LAND DRAINAGE.

## CENSUS

*See, also,* ELECTIONS.

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## ORDERS, CIRCULARS AND MEMORANDA

## THE NATIONAL REGISTRATION AMENDMENT REGULATIONS, 1943

*S. R. & O.*, 1943, No. 731

*May* 12, 1943

103610.

In exercise of the powers conferred on us by the National Registration Act, 1939, as amended by Regulation 20AB of the Defence (General) Regulations,

1939, and of all other powers enabling us in that behalf, acting jointly, we hereby make the following regulations :—

1.—(1) These regulations may be cited as the National Registration Amendment Regulations, 1943, and shall be read as one with the National Registration Regulations, 1939 to 1941, and the National Registration Amendment Regulations, 1942, and the said regulations and these regulations may be cited together as the National Registration Regulations, 1939 to 1943.

(2) In these regulations the expression “ the principal regulations ” means the National Registration Regulations, 1939, as amended by subsequent regulations including, unless the context otherwise requires, these regulations.

(3) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

(4) These regulations shall, except as otherwise expressly provided, come into operation on the date hereof. [140]

2. At the end of paragraph (2) of regulation 1 of the principal regulations there shall be inserted the following definitions—

“ ‘ temporary identity card ’ means an identity card valid for a limited period only ;

‘ child ’ means a person who has not attained the age of sixteen years ”. [141]

3.—(1) The following regulation shall be inserted after regulation 19A of the principal regulations :—

“ 19B.—(1) Where a registered person embarks in the United Kingdom for a destination outside the United Kingdom, notice of his embarkation shall be given, under arrangements made by the Registrar-General with the appropriate department or authority, to the central national registration officer for England.

(2) A person, not being a child or the holder of a temporary identity card, who arrives by sea or by air in any part of the United Kingdom after an absence from the United Kingdom of not less than four weeks duration, or after embarking in some other part of the United Kingdom under the authority of an exit permit other than a return permit valid for a period of less than four weeks shall, upon or within seven days after his arrival, produce his identity card at the office of a local national registration officer ”.

(2) Paragraph (c) of regulation 23 of the principal regulations is hereby revoked :

Provided that any arrangements made by the Registrar-General for the purposes of that paragraph shall continue in force and shall have effect as if made under regulation 19B of those regulations.

(3) This regulation shall come into operation on the thirty-first day of July, nineteen hundred and forty-three. [142]

4. The following paragraph shall be substituted for paragraph (b) of regulation 23 of the principal regulations :—

“ (b) becomes a seaman ; ”. [143]

5. Paragraph (3) of regulation 28 of the principal regulations shall be revoked, and the following paragraph shall be substituted therefor :—

“ (3) An identity card shall be—

(a) in the case of a child, in the form A or in the form B set forth in the third schedule to these regulations ;

(b) in the case of a person other than a child—

- (i) until the thirty-first day of July, nineteen hundred and forty-three, in one of the forms A, C and D set forth in the said schedule ;
- (ii) after the said date, in the form C or in the form D set forth in the said schedule ;

or in either case in such other form substantially to the like effect as the Registrar-General may determine :

Provided that nothing in this paragraph shall affect the validity of an identity card issued or to be issued under regulation 2 of the National Registration Amendment Regulations, 1939, or of any other card in the form A set forth in the said schedule, or in such form substantially to the like effect as may have been or may be determined by the Registrar-General, to which there has been or shall be affixed, by the authority of, or under arrangements approved by, the Registrar-General, a photograph of the person to whom the card relates.” [144]

6. The following regulation shall be inserted after regulation 28 of the principal regulations :—

“ 28A.—(1) Temporary identity cards may be issued in respect of the following classes of persons :—

- (a) persons, not being registered persons, entering the United Kingdom ;
- (b) children ;
- (c) registered persons who, being in Great Britain by virtue of permission granted under the Passenger Traffic Order, 1942, are subject to conditions imposed under that order ;
- (d) registered persons who, being in Northern Ireland by virtue of permits under the Residence in Northern Ireland (Restriction) Order, 1942, authorising them to be resident in that country, are so resident subject to conditions imposed under that order ;
- (e) registered persons whose identity cards are lost or become destroyed or defaced.

(2) A temporary identity card may be issued in any of the following circumstances :—

- (a) upon the delivery to a local national registration officer of a registration return ;
- (b) upon the production of an identity card at the office of a local national registration officer for any of the purposes of the Act and regulations other than the purposes of regulation 33 and of the first paragraph of regulation 36A of these regulations ;
- (c) upon an application for a substitute for a lost, destroyed or defaced identity card.

(3) The period of validity of a temporary identity card may be limited either by reference to a fixed date or by reference to the happening of a specified event.” [145]

7. The following regulation shall be inserted after regulation 30 of the principal regulations :—

“ 30A.—(1) A registered person, not being a child, shall—

- (a) surrender his identity card to a local national registration officer or to a person authorised by the Registrar-General in writing to receive the card, if so required by the officer or person, upon the production of the card to him for any purpose ; and

- (b) if he is the holder of a temporary identity card, surrender the card to a local national registration officer upon, or within seven days after, the expiration of the period of validity of the card :

Provided that, in the case of a person of whom for the purposes of these regulations some other person is deemed to be in charge, that other person shall surrender the card.

(2) A person who has for the time being the custody of an identity card relating to a child shall surrender the card to a local national registration officer, if so required by the officer, upon the production of the card to the officer for any of the purposes of the Act and regulations.

(3) A person of the age of sixteen years, not being a person of whom a person specified in paragraph 1 or paragraph 2 of the first column of the fourth Schedule to these regulations is for the purposes of these regulations deemed to be in charge, shall upon or within seven days after attaining that age surrender his identity card to a local national registration officer or to an officer of the Ministry of Labour and National Service, or of a local education authority in England or of an education authority in Scotland, authorised, in accordance with arrangements made by the Registrar-General, to receive the card.

(4) A person, not being a local national registration officer, to whom an identity card is surrendered in pursuance of this regulation shall forthwith forward the card to the local national registration officer for the local area in which is situate the place of residence of the person to whom the card relates.

(5) Subject to the provisions of these regulations, a local national registration officer to whom an identity card is surrendered or to whom a surrendered card is forwarded shall, unless the person to whom the card relates has died or is outside the United Kingdom,—

- (a) if the surrendered card is a temporary identity card, either endorse the card as valid for a further period and reissue it, or issue a fresh identity card ;
- (b) if the surrendered card is not a temporary identity card, either reissue the card or issue a fresh identity card.” [146]

8. The following paragraph shall be added at the end of regulation 36A of the principal regulations :—

“(4) A person who has the custody of an identity card containing any particulars which are to his knowledge incorrect shall forthwith surrender the card to a local national registration officer, and that officer shall, unless the person to whom the card relates is a person who is not required to be registered, issue a fresh identity card in lieu thereof.” [147]

9. The following regulation shall be substituted for regulation 37 of the principal regulations :—

“37.—(1) The following persons are authorised in pursuance of subsection (4) of section 6 of the Act to require the production of an identity card—

- (a) any member of His Majesty’s naval, military or air forces in uniform on duty ;
- (b) a local national registration officer :

Provided that nothing in this regulation shall authorise a local national registration officer to require the production of an identity card elsewhere than at his office.

(2) The period within which an identity card is to be produced for the purpose of the proviso to subsection (4) of section 6 of the Act shall be two clear days.

(3) The place at which an identity card is to be produced for the purposes of the said proviso shall be—

- (a) in a case where a person is required to produce the card by a local national registration officer, the office of that officer ;
- (b) in any other case, a police station to be specified by the person at the time when the requirement is made ;

and the person to whom the identity card is to be produced shall be, in a case mentioned in subparagraph (a) of this paragraph, the local national registration officer, and, in any other case, a responsible officer at the specified police station.” [148]

10. The following regulation shall be substituted for regulation 45 of the principal regulations :—

“ 45.—(1) The Act and regulations shall apply to the persons specified in paragraph (2) of this regulation subject to the following exceptions :—

- (a) sections 1, 2 and 3 and subsection (1) of section 6 of the Act shall not apply to the said persons ;
- (b) the following provisions of the principal regulations shall not apply to the said persons :—
  - in Part I, regulation 2 ;
  - Part II ;
  - in Part III, regulations 19A, 19B, 22 and 24, and, so far as it concerns persons who may be required to do anything thereunder, regulation 20A ;
  - in Part IV, regulations 28A and 29 and paragraphs (1), (3) and (4) of regulation 30A ;
  - the second schedule ;
- (c) the National Registration Amendment Regulations, 1939, shall not apply to the said persons ;

and accordingly the said persons shall not be required to be registered.

(2) The persons referred to in paragraph (1) of this regulation are :—

- (a) male persons belonging to His Majesty's naval, military and air forces raised in the United Kingdom, or to a visiting force, who do not hold commissions in those forces, not being (i) members of the Home Guard or (ii) members of His Majesty's reserve and auxiliary forces who have not since 31st August, 1939, been called out for service under the permanent enactments relating to those forces or (iii) persons who have been released from actual service for an indefinite period ;
- (b) male persons holding commission in His Majesty's naval, military and air forces raised in the United Kingdom, or in a visiting force, who are, when employed on naval, military or air force duty, entitled to pay as serving officers, not being (i) persons who are members of any of His Majesty's reserves of officers or of the territorial army or of the auxiliary air force and have not been called out for service or embodied since 31st August, 1939, or (ii) persons who have served as officers in the royal navy, royal marines or regular air force and are under a liability to be called out for service but have not been so called out since 31st August, 1939, or (iii) persons

who have been released from actual service for an indefinite period ;

- (c) persons who have been granted class CC commissions in the Reserve of Air Force Officers ;
- (d) women members of the armed forces of the Crown, not being
  - (i) members who have not since 31st August, 1939, been called out for service or
  - (ii) members who have been released from actual service for an indefinite period ;
- (e) officers of ratings of the Women's Royal Naval Service ;
- (f) members of Queen Alexandra's Royal Naval Nursing Service ;
- (g) members of a naval, military or air force of any foreign power allied with His Majesty or of a naval, military or air force maintained by an authority recognised by His Majesty as competent to maintain such force for service in association with His Majesty's forces, not being members who have been released from actual service for an indefinite period ;
- (h) seamen ;
- (i) members of the Civilian Technical Corps.

(3) In this regulation the expression—

‘ visiting force ’ means a visiting force as defined in the Visiting Forces (British Commonwealth) Act, 1933, or a body, contingent or detachment of the naval, military and air forces (including reserve and auxiliary forces) of His Majesty raised in India or Burma or in a British colony which is, with the consent of His Majesty's Government in the United Kingdom, lawfully present in the United Kingdom ;

‘ His Majesty's reserve and auxiliary forces ’ includes persons who have served as petty officers or seamen in the royal navy or as non-commissioned officers or men of the royal marine forces, and are in receipt of pensions in respect of such service ; and

‘ called out for service under the permanent enactments relating to His Majesty's reserve and auxiliary forces ’ means, as the case may be, called into actual service under section 4 of the Royal Naval Reserve (Volunteer) Act, 1859, or ordered under section 16 of the Naval Volunteers Act, 1853, to join the royal navy, or ordered by virtue of section 4 of the Naval Enlistment Act, 1884, to serve in the royal marine forces, or called out on permanent service by virtue of a proclamation made under section 12 of the Reserve Forces Act, 1882, or embodied in pursuance of directions given under subsection (1) of section 17 of the Territorial and Reserve Forces Act, 1907.” [149]

11. The following words shall be inserted at the end of regulation 48 of the principal regulations :—

“ and for references in the fourth Schedule to these regulations to a child or to children there shall be substituted references to a person, or to persons, under the age of fourteen years.” [150]

12. In paragraph 4 of the first column of the fourth schedule to the principal regulations there shall be substituted for the words “ another person ” the words “ a child ” ; in paragraph 3 of the second column thereof there shall be inserted after the word “ inmates ” the words “ being children ” ; and in paragraph 4 of the second column thereof there shall be substituted for the word “ person ” the word “ child ”. [151]



13. The form set forth in the Third Schedule to the principal regulations shall be headed "Form A", and there shall be added at the end of that Schedule the forms B, C and D set forth in the schedule to these regulations. [152]

14. Regulation 45A of the principal regulations and regulation 3 of the National Registration Amendment Regulations, 1940, are hereby revoked but without prejudice to anything duly done or suffered, or to any right, privilege, obligation or liability acquired, accrued or incurred thereunder. [153]

### SCHEDULE

#### FORM B (person under 16 years)

Number	
*	Surname
Christian names	
Full postal address	
This Identity Card is valid until	
.....19.... only	
CHANGES OF ADDRESS	
Removed to (full postal address)	
Signature of parent, guardian or other person having charge or control	

\* For insertion of registration number allotted in accordance with instructions of Registrar-General.

## FORM C (temporary identity card)

Number	
*	Surname
Christian names	
Class Code	
Full postal address	
This Identity Card is valid until .....19.... only	
Holder's signature	
The validity of this Identity Card is renewed until.....19.... only	
CHANGES OF ADDRESS	
Removed to (full postal address)	

\* For insertion of registration number allotted in accordance with instructions of Registrar-General.

## FORM D

Number	
*	Surname
Christian names	
Class Code	
Full postal address	
Holder's signature	
CHANGES OF ADDRESS	
Removed to (full postal address)	

\* For insertion of registration number allotted in accordance with instructions of Registrar-General.

[154]

\* \* \* \* \*

## THE NATIONAL REGISTRATION AMENDMENT (NO. 2) REGULATIONS, 1943

*S. R. & O.*, 1943, No. 1708

*December 11, 1943*

103727.

In exercise of the powers conferred on us by the National Registration Act, 1939, as amended by Regulation 20AB of the Defence (General) Regulations, 1939, and of all other powers enabling us in that behalf, acting jointly, we hereby make the following regulations:—

1.—(1) These regulations may be cited as the National Registration Amendment (No. 2) Regulations, 1943, and shall be read as one with, and shall be included among the regulations which may be cited as, the National Registration Regulations, 1939 to 1943.

(2) In these regulations the expression "the principal regulations" means the National Registration Regulations, 1939, as amended by subsequent regulations including, unless the contest otherwise requires, these regulations.

(3) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [155]

2. The following proviso shall be inserted at the end of regulation 18 of the principal regulations :—

" Provided that, where a local area consists of such a group as aforesaid, the area of each borough or urban or rural district forming part of the local area shall in all respects be treated as a separate local area, except that it shall not be necessary to appoint a local national registration officer for each such borough or district, and that, if the Registrar-General so directs, it shall not be necessary to keep a separate maintenance register for each such borough or district." [156]

3. Regulations 19, 19A and 19B of the principal regulations are hereby revoked but without prejudice to anything duly done or suffered or to any right, privilege, obligation or liability acquired, accrued or incurred thereunder, and the following regulations shall be inserted in the principal regulations in the place of the regulations so revoked :—

" 19.—(1) A registered person shall, upon changing his place of residence, give notice of such change (in these regulations referred to as a notice of removal) :

Provided that—

(a) such notice shall not be required where—

- (i) a person is temporarily absent within the United Kingdom, in circumstances which do not involve a change of retailer for food rationing purposes, from his registered address, being his usual place of residence to which he intends and expects to return, if and so long as arrangements made by or in respect of him secure that postal communications addressed to him at the registered address reach him without undue delay and that his actual address for the time being is ascertainable upon enquiry at the registered address by the local national registration officer for the local area in which the registered address is situate or by any other person authorised in that behalf by the Registrar-General ; or
- (ii) a person leaves the United Kingdom intending and expecting to return to his registered address in the United Kingdom, being his usual place of residence, within a period of two months ; or
- (iii) a child leaves the United Kingdom ; or
- (iv) a person changes his place of residence from a place outside the United Kingdom to another place outside the United Kingdom ;

(b) in the case of a person of whom for the purposes of these regulations some other person is deemed to be in charge the notice shall be given by that other person.

(2) A notice of removal to a place within the United Kingdom shall be given by a person by attending, within seven days after the removal,

at the office of the local national registration officer for the local area in which the new place of residence is situate and there producing the identity card of the person to whom the notice relates and giving such particulars relating to his residence as may be required on a form to be provided by the Registrar-General :

Provided that—

- (i) in the case of a person who is an inmate of a casual ward or is detained on the premises of any civil prison, lock-up or other place of detention the notice shall be given at such times and in such manner as may be specified in arrangements made by the Registrar-General with the appropriate Departments and in such a case production of the identity card shall not be required ;
  - (ii) where a person in respect of whom, by virtue of the provisions of proviso (a) (i) to paragraph (1) of this regulation, notice of removal is not required ceases to be such a person, the notice shall be given within seven days after the date on which he ceased to be such a person.
- (3) A notice of removal to a place outside the United Kingdom shall be given by a person either—
- (a) by attending at the office of a local national registration officer and there producing that person's identity card and giving such particulars relating to his residence as may be required on a form to be provided by the Registrar-General ; or
  - (b) by giving, on that person's embarkation for a place outside the United Kingdom to an officer authorised, under arrangements made by the Registrar-General with the appropriate Department or authority, to receive and transmit to the central national registration officer for England information respecting the removal of persons leaving the United Kingdom, such information with respect to that person's removal as the officer shall require :

Provided that where a person leaves the United Kingdom by sea or air a notice given under subparagraph (a) of this paragraph shall not take effect until the date on which he leaves the United Kingdom.

(4) A local national registration officer to whom a notice of removal is given shall enter on the identity card of the person to whom the notice relates and authenticate, in manner directed by the Registrar-General, the new address, or, if the removal is to a place outside the United Kingdom, the country to which the person is proceeding.

(5) A registered person, not being a child, who—

- (a) on entering the United Kingdom is required to give a notice of removal, or
- (b) on leaving the United Kingdom gives such notice to a local national registration officer,

shall, in addition to giving such notice, make a declaration in writing on a form to be provided by the Registrar-General stating whether or not his usual place of residence is outside Great Britain and Northern Ireland :

Provided that in the case of a person of whom for the purposes of these regulations some other person is deemed to be in charge the declaration shall be made by that other person.

(6) A registered person who leaves or has left Great Britain or Northern Ireland and does not return, or has not returned, thereto with a period of two months, not being a child or a person in respect of whom on so leaving a notice

of removal was given, shall be recorded in the Register as having changed his place of residence, on the date on which he so left, from his registered address to a place outside Great Britain and Northern Ireland.

(7) (a) A notice of removal shall take effect from the end of the day on which it is given.

(b) An entry made in the Register in pursuance of paragraph (6) of this regulation shall take effect from the end of the day on which the removal is recorded in the Register as having taken place.

19A. A person, not being a child,—

(a) as respects whom information is received by the central national registration officer for England, under arrangements made for the purpose between the Registrar-General and the appropriate Department or authority, that the person—

(i) being in Great Britain by virtue of permission granted under the Passenger Traffic Order, 1942, is subject to a condition imposed under that order as to the length or as to the determination of his stay in Great Britain ; or

(ii) is in Northern Ireland by virtue of a permit under the Residence in Northern Ireland (Restriction) Order, 1942, valid, subject to compliance with conditions specified therein, until a specified date, other than the date of the termination of the Order ; or

(b) as respects whom it is stated in a declaration made under paragraph (5) of regulation 19 of these regulations or in a registration return that his usual place of residence is outside Great Britain and Northern Ireland,

shall be recorded in the Register as usually resident outside the United Kingdom :

Provided that a person shall cease to be so recorded if—

(a) in a case where he is so recorded by virtue of the provisions of paragraph (a) of this regulation, information is received as aforesaid that he has ceased to be a person to whom the provisions of that paragraph apply, or

(b) being a person who is so recorded by virtue of such a declaration or return as aforesaid, and whose registered address is in Great Britain or Northern Ireland, he attends at the office of the local national registration officer for the local area in which his registered address is situate and satisfies the officer that his usual place of residence is not outside Great Britain and Northern Ireland."

[157]

4. In regulation 20 of the principal regulations, for subparagraphs (c) and (d) of paragraph (1) thereof there shall be substituted the following subparagraph :—

"(c) ceases to be a person who by virtue of regulation 45 of these regulations is not required to be registered ". [158]

5. In regulation 23 of the principal regulations, for the words from the beginning of the regulation to "becomes a seaman" there shall be substituted the words "Where any registered person becomes a person who by virtue of regulation 45 of these regulations is not required to be registered".

[159]

6. The following paragraph shall be added at the end of regulation 28 of the principal regulations :—

“(4) The person responsible for the custody of an identity card shall sign the card in the space provided for the purpose—

- (a) if he is responsible therefor at the date of the coming into operation of this paragraph, forthwith ;
- (b) if he becomes responsible therefor after the said date, forthwith upon becoming responsible therefor.” [160]

7. The following subparagraph shall be inserted in paragraph (1) of regulation 28A of the principal regulations (which paragraph specifies the classes of persons in respect of whom temporary identity cards may be issued) immediately after subparagraph (d) thereof :—

“(dd) registered persons who are usually resident outside Great Britain and Northern Ireland ”. [161]

8.—(1) In subparagraph (b) of paragraph (1) of regulation 45 of the principal regulations there shall be substituted for the words and numbers “regulations 19A, 19B ” the words and numbers “ paragraphs (4) and (6) of regulation 19, regulations 19A ”.

(2) In subparagraph (a) of paragraph (2) of the said regulation 45 the words “ under the permanent enactments relating to those forces ” shall be omitted.

(3) In paragraph (3) of the said regulation the words from “ and ‘ called out for service under the permanent enactments ’ ” to the end of the paragraph shall be omitted, the paragraph shall be renumbered “ (3) (a) ”, and the following subparagraph shall be added at the end thereof :—

“(b) For the purposes of this regulation a member of His Majesty’s reserve and auxiliary forces shall be deemed to have been called out for service if he has been called into actual service under section 4 of the Royal Naval Reserve (Volunteer) Act, 1959, or ordered under section 16 of the Naval Volunteers Act, 1853, to join the royal navy, or ordered by virtue of section 4 of the Naval Enlistment Act, 1884, to serve in the royal marine forces, or called out on permanent service by virtue of a proclamation made under section 12 of the Reserve Forces Act, 1882, or embodied in pursuance of directions given under sub-section (1) of section 17 of the Territorial and Reserve Forces Act, 1907.” [162]

9. In Part I of the first schedule to the principal regulations—

(1) the following entry shall be substituted for the entry “ 2. Full Postal Address ” :—

“ 2. Full postal address, and whether or not the usual place of residence of the person to whom the return relates is outside Great Britain and Northern Ireland ” ; and

(2) the following entry shall be added at the end of the said part :—

“ 10. Nationality ”. [163]

\* \* \* \* \*



## CHARITIES

ORDERS, CIRCULARS AND MEMORANDA :—

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War Charities (Definition) Order, 1943

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### ORDERS, CIRCULARS AND MEMORANDA THE WAR CHARITIES (DEFINITION) ORDER, 1943

*S. R. & O., 1943, No. 1147**August 10, 1943*

\* \* \* \*

His Majesty, in pursuance of the powers conferred on Him by subsection (1) of section eleven of the War Charities Act, 1940, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. It is hereby declared that the War Charities Act, 1940, is applicable to all wars in which His Majesty is engaged at the date of the making of this Order. [164]

2. This Order may be cited as the War Charities (Definition) Order, 1943. [165]

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## COMMONS

*See OPEN SPACES.*

## CONDENSED MILK

*See FOOD AND DRUGS.*

## CONSERVANCY AUTHORITIES

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### ORDERS, CIRCULARS AND MEMORANDA THE WEAVER NAVIGATION TRUSTEES (EXTENSION OF TERM OF OFFICE) ORDER, 1943

*S. R. & O., 1943, No. 917**June 30, 1943*

\* \* \* \*

Whereas application has been made on behalf of the Weaver Navigation Trustees constituted under the Weaver Navigation Act, 1895, praying that

His Majesty may be graciously pleased to make an Order in Council extending the term of office of certain of those trustees under section two of the Chartered and other Bodies (Temporary Provisions) Act, 1939 :

Now, therefore, His Majesty, in pursuance of the powers conferred on Him by the said section two and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. The Weaver Navigation Trustees (Extension of Term of Office) Order, 1940 (which extended the term of office of the trustees elected by the toll payers under the Weaver Navigation Act, 1895, to the fourth Thursday in November, nineteen hundred and forty-three, and postponed the triennial election of such trustees accordingly) shall have effect as if for the words “nineteen hundred and forty-three”, wherever they occur in Article 1 of that Order, there were substituted the words “nineteen hundred and forty-six”. [166]

2. This Order may be cited as the Weaver Navigation Trustees (Extension of Term of Office) Order, 1943. [167]

\* \* \* \* \*

## THE TEES CONSERVANCY COMMISSIONERS (EXTENSION OF TERM OF OFFICE) ORDER, 1943

*S. R. & O., 1943, No. 1038*

*July 22, 1943*

\* \* \* \* \*

Whereas, on application made on behalf of the Tees Conservancy Commissioners, His Majesty in Council was pleased, by the Tees Conservancy Commissioners (Extension of Term of Office) Order, 1940, made under the Chartered and Other Bodies (Temporary Provisions) Act, 1939, to make provision for extending the term of office and postponing the election of certain of those Commissioners until the year nineteen hundred and forty-three and of certain other of those Commissioners until the year nineteen hundred and forty-four, and for incidental and consequential matters :

And whereas application has been made on behalf of the Tees Conservancy Commissioners praying that His Majesty may be graciously pleased to make further provision with respect to them :

Now, therefore, His Majesty, in pursuance of the powers conferred on Him by sections two and four of the Chartered and Other Bodies (Temporary Provisions) Act, 1939, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :

1. The Tees Conservancy Commissioners (Extension of Term of Office) Order, 1940, shall have effect and be deemed always to have had effect as if for the words “nineteen hundred and forty-three” and for the words “nineteen hundred and forty-four” there were respectively substituted, wherever they occur, the words “nineteen hundred and forty-four” and the words “nineteen hundred and forty-five”. [168]

2. This Order may be cited as the Tees Conservancy Commissioners (Extension of Term of Office) Order, 1943. [169]

\* \* \* \* \*

## DERATING

*See RATES AND RATING.*

## DESTRUCTIVE INSECTS AND PESTS

ORDERS, CIRCULARS AND MEMORANDA :—

Sugar Beet Eelworm Order, 1943 - - - - -

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## ORDERS, CIRCULARS AND MEMORANDA

## THE SUGAR BEET EELWORM ORDER, 1943

*S. R. & O., 1943, No. 1136**July 29, 1943**(D.I.P. No. 612.)*

In exercise of the powers conferred upon him by the Destructive Insects and Pests Acts, 1877 to 1927, and of every other power enabling him in this behalf the Minister of Agriculture and Fisheries hereby makes the following Order :—

*Short Title*

1. This Order may be cited as the Sugar Beet Eelworm Order, 1943. [170]

*Application and Commencement*

2. This Order shall apply to all land, other than allotment gardens and private gardens, in England and Wales, and shall come into operation on the fifteenth day of August nineteen hundred and forty-three. [171]

*Definitions*

3. In this Order :—

“ Sugar beet eelworm ” means *Heterodera Schachtii* Schmidt, restricted to the species or race that attacks plants of the orders Chenopodiaceae and Cruciferae.

“ Allotment garden ” has the same meaning as in the Allotments Act, 1922.

“ War Agricultural Executive Committee ” means (a) in relation to a county, the committee for that county whereof the members are authorised to exercise as respects land in that county any powers of the Minister under regulations made under the Emergency Powers (Defence) Act, 1939 ; and (b) in relation to a county borough, the committee whereof the members are authorised to exercise within that borough any of the powers aforesaid.

“ Infected Area ” means the areas described in the Schedule hereto and any other area in England and Wales which is for the time being certified by the Minister to be an Infected Area for the purposes of this Order. [172]

*Restrictions on Planting*

- 4.—(1) Except under and in accordance with the provisions of a licence issued by the War Agricultural Executive Committee for the County or County Borough within which the land is situated (hereinafter referred to as

“ the Committee ”), no person shall sow or cause or permit to be sown any seed or plant or cause or permit to be planted any plant of sugar beet, mangold, red beet, spinach, cabbage, kale, cauliflower, broccoli, brussels sprouts, turnip, swede, mustard, cress, radish, kohlrabi or rape

(a) on any land in which sugar beet eelworm is known to exist,

(b) on any land situated within an Infected Area on which any of the crops aforementioned have been grown during the two preceding years.

(2) The Committee may by notice in writing served on the occupier or other person in charge of any land on which any crop is being grown in contravention of this Article require him to remove and to dispose of the said crop in such manner and within such time as the Committee may direct.

[173]

#### *Preventive Measures*

5.—(1) Except under and in accordance with the provisions of a licence issued by the Committee, no potatoes which have been grown on land in which sugar beet eelworm is known to exist shall be moved off such land for planting otherwise than on the farm or holding of which such land forms part.

(2) The Committee may by notice in writing served on the occupier or other person in charge of any land in which sugar beet eelworm is known to exist require him to adopt such other measures to prevent the spread of sugar beet eelworm as may be specified in the notice and within such time as the Committee may also specify in the notice. [174]

#### *Powers of Entry*

6. Any officer of the Committee and any person authorised by the Committee for the purposes of this Order may upon production if so required of his appointment or authority enter upon, and examine any crop growing on, any land situated within an Infected Area or in which sugar beet eelworm is known or is suspected to exist. [175]

#### *Service of Notices*

7. For the purposes of this Order a notice shall be deemed to be served on any person if it is delivered to him personally or left for him at this last known place of abode or business or sent through the post in a letter addressed to him there. [176]

#### *Information to be Given*

8. The occupier or other person in charge of any land situated within an Infected Area or in which sugar beet eelworm is known or is suspected to exist shall if so required in writing by the Committee give the Committee or any officer of the Committee or any person authorised by the Committee for the purposes of this Order all information in his possession as may be required for the purposes of this Order as to the crops grown on such land at any time : provided that any information given under this Article shall not be available as evidence against the person giving the same in any prosecution under this Order, except in respect of an alleged failure to comply with this Article. [177]

#### *Offences*

9. Any person who fails to comply with or who acts in contravention of this Order or of the terms or conditions of any notice or licence served or issued thereunder, or who wilfully obstructs an officer of the Committee or any person authorised by the Committee in the exercise of his powers under this

Order, or who wilfully or negligently makes any statement for the purposes of this Order which is false in any material particular shall be liable on conviction to a penalty not exceeding ten pounds or in respect of a second or subsequent offence to a penalty not exceeding fifty pounds. [178]

\* \* \* \* \*

### SCHEDULE

1. Those parts of the counties of Cambridge, Huntingdon, Isle of Ely, Norfolk and Suffolk West which lie within the following boundaries :—

*South.*

From Fordham in the south-east along the road to Wicken, Stratham Haddenham, Earith and Somersham, then along the railway via Warboys to Ramsey, then along the road via Upwood and Great Raveley to Wood Walton.

*West.*

From Wood Walton along the railway via Holme to the point where the railway crosses the road to Farcet, along this road through Farcet to Stan-ground, then east by road towards Whittlesey to the point where the road crosses the railway line.

*North.*

Along the railway line via Whittlesey to March, then along the Old Course of the River Nene to the junctions of Popham's Eau, along Popham's Eau to the junction of the Middle Level Main Drain, along the Middle Level Main Drain northwards to a point where it is crossed by the railway, thence east along the railway to a point where it crosses the River Ouse.

*East.*

Southwards along the River Ouse to Downham Market Bridge, then along the road through Downham Market to Crimplesham, Wereham, Stoke Ferry, Methwold and Feltwell in the direction of Lakenheath to the point where the road crosses the river Little Ouse, westwards along the Little Ouse to the junction of Stallode Wash, south-eastwards along the Stallode Wash to the railway line, westwards along the railway line to Shippea Hill, southwards along the road to Beck Row and West Row and continuing to the point where the road crosses the river Lark, westwards along the river Lark to the junction with the river Kennet, south along the river Kennet to the railway, westwards along the railway to Fordham.

2. The whole farm occupied by the Loughborough Corporation and known as the Loughborough Corporation Sewage Farm situated in the Municipal Borough of Loughborough in the administrative county of Leicester.

3. The whole farm occupied by the Norwich Corporation and known as the Norwich Corporation Sewage Farm situated in the parish of Witlingham in the administrative county of Norfolk.

4. The whole farm occupied by the Haverhill Urban District Council and known as the Haverhill Sewage Farm situated in the parish of Haverhill in the administrative county of West Suffolk. [179]

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## DISEASE

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## ORDERS, CIRCULARS AND MEMORANDA

## ORDER AMENDING REGULATION 33B OF, AND THE THIRD SCHEDULE TO, THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O.*, 1943, No. 193

February 10, 1943

1. For paragraph (10) of Regulation thirty-three B of the Defence (General) Regulations, 1939 (which relates to the compulsory treatment of venereal disease), there shall be substituted the following paragraph :—

“(10) This Regulation shall, in its application to Northern Ireland, have effect subject to the following modifications :—

- (a) for any reference to the Minister of Health there shall be substituted a reference to the Ministry of Home Affairs for Northern Ireland ;
- (b) any reference to the medical officer of health shall be construed, in relation to a county borough, as a reference to the medical superintendent officer of health, and, in relation to a county not being a county borough, as a reference to such registered medical practitioner as may be designated for the purposes of this Regulation by the Ministry of Home Affairs for Northern Ireland as the medical officer of health for the county ;
- (c) for the definition of ‘special practitioner’ there shall be substituted the following definition :—

“ ‘special practitioner’ means a registered medical practitioner who is in clinical charge of a treatment centre established by, or in receipt of a grant from, a local authority, for the diagnosis and treatment of venereal diseases, or who is a medical officer of any of His Majesty’s forces employed for the time being as a specialist in venereal diseases, or who is for the time being designated by the Ministry of Home Affairs for Northern Ireland as a special practitioner for the purposes of this Regulation.’ ”

[180]

2. In the Third Schedule to the said Regulations (which relates to the manner of instituting proceedings for offences thereunder), for the entry relating to Regulations thirty-three A and thirty-three B there shall be substituted the following entries :—

“ Regulation 33A. In the case of proceedings arising out of a notice issued by a medical officer of health or medical superintendent officer of health, by or on behalf of the local authority by which that officer was appointed.

## Regulation 33B

In the case of proceedings arising out of a notice served by a medical officer of health or medical superintendent officer of health appointed or designated for any county or county borough, by or on behalf of the council of the county or borough." [181]

\* \* \* \*

## THE KENSINGTON (ACUTE RHEUMATISM) REGULATIONS, 1943

*S. R. & O., 1943, No. 610*

*April 15, 1943*

103580.

Whereas in exercise of his powers under section 143 of the Public Health Act, 1936, the Minister of Health on the 13th day of November, 1939, made the Kensington (Acute Rheumatism) Regulations, 1939, providing for the notification and treatment of cases of acute rheumatism occurring in the royal borough of Kensington;

And whereas by article 1 (2) of the said regulations it was provided that they should come into operation on the 1st day of December, 1939, and continue in operation for a period of three years from that date;

And whereas it is expedient that the period of operation of the said regulations should be extended:

Now therefore the Minister of Health in exercise of his aforesaid powers hereby makes the following regulations:—

1. Notwithstanding anything in article 1 (2) of the Kensington (Acute Rheumatism) Regulations, 1939, such regulations shall have effect until the 30th day of November, 1945. [182]

2. These regulations may be cited as the Kensington (Acute Rheumatism) Regulations, 1943. [183]

\* \* \* \*

## THE COUNTY OF LONDON (SCABIES) REGULATIONS, 1943

*S. R. & O., 1943, No. 1016*

*July 19, 1943*

103590.

Whereas the Minister of Health is empowered by section 143 of the Public Health Act, 1936, to make regulations with a view to the treatment of persons affected with any epidemic, endemic or infectious disease and for preventing the spread of such diseases, and by such regulations to apply, with or without modifications, to any disease to which the regulations relate any enactment relating to the notification of disease or to notifiable diseases;

And whereas scabies is an endemic and infectious disease;

And whereas the Minister of Health is further empowered by section 283 of the said Act to prescribe the form of any certificate to be used for any of the purposes of the said Act:

Now therefore the Minister of Health in exercise of his powers under the said sections and of all other powers enabling him in that behalf hereby makes the following regulations, that is to say:—



1.—(1) These regulations may be cited as the County of London (Scabies) Regulations, 1943.

(2) These regulations shall come into operation on the 1st day of August 1943, and shall be enforced and executed by the sanitary authorities for the purposes of the Public Health (London) Act, 1936.

(3) Every sanitary authority shall give notice of these regulations by advertisement in a local newspaper circulating within their district and in such other manner as they think sufficient for informing persons interested, and shall also send a copy to each registered medical practitioner who after due inquiry is ascertained to be practising within the district. [184]

2.—(1) In these regulations unless the context otherwise requires the expressions “district” and “district medical officer of health” have the meanings assigned thereto in the Public Health (London) Act, 1936.

(2) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [185]

3. Section 192 of the Public Health (London) Act, 1936, being an enactment relating to the notification of disease, shall as modified and set out in the first schedule to these regulations apply to scabies. [186]

4. The duties assigned to a medical officer of health by the Sanitary Officers Order, 1926, shall be deemed to extend to and to include all action by a district medical officer of health in the execution of these regulations. [187]

5. The form set out in the second schedule to these regulations is hereby prescribed as the form of certificate to be used for the purposes of these regulations. [188]

#### FIRST SCHEDULE

##### *Public Health (London) Act, 1936*

*Section 192.*—(1) Where an inmate of a house is suffering from scabies the following provisions shall have effect, that is to say :—

Every medical practitioner attending on, or called in to visit, the inmate (in this section referred to as “the patient”) shall forthwith on becoming aware that the patient is suffering from scabies, send to the district medical officer of health a certificate stating the full name and the age and sex of the patient, the full address of the house, and that, in the opinion of the medical practitioner, the patient is suffering from scabies, and stating also whether the case occurs in the private practice of the practitioner or in his practice as a medical officer of a public body or institution; and where the certificate refers to the inmate of a hospital, it shall specify the place from which, and the date on which, the patient was brought to the hospital, and shall be sent to the district medical officer of health for the district in which the said place is situate:

Provided that this section shall not require any certificate—

- (a) where to the knowledge of the medical practitioner a case of scabies has occurred in the house and has been notified within the four weeks immediately preceding the date on which he first became aware of the disease in the case he is attending,
- (b) where the case is being treated in a hospital for infectious diseases, or
- (c) in the case of a person suffering from scabies admitted as a patient into a hospital belonging to the county council, if at the time of his admission a copy of a certificate under this subsection to that effect has been sent by a district medical officer of health to the county council as hereinafter provided.

(2) Where a district medical officer of health receives a certificate under this section, he shall, within twelve hours after receipt of the certificate, send a copy thereof to the county council, to the head teacher of the school attended by the patient (if a child) and to the head teacher of any school attended by any child who is an inmate of the same house as the patient.

(3) Where there are two or more district medical officers of health for the district of the sanitary authority concerned, a certificate under this section shall be sent to such one of those officers as has charge of the area in which is the patient referred to in the certificate, or to such other of those officers as the sanitary authority may direct.

(4) A certificate required to be sent to a district medical officer of health in pursuance of this section shall be sent to him at his office.

(5) Every medical practitioner required by this section to send a certificate, who fails forthwith to send it, shall be liable to a fine not exceeding forty shillings.

(6) Every sanitary authority shall gratuitously supply forms of certificates for the purposes of this section to any medical practitioner residing or practising in their district who applies therefor, and shall pay to a medical practitioner for each certificate sent by him in accordance with this section a fee of two shillings and sixpence if the case occurs in his private practice, or of one shilling if the case occurs in his practice as medical officer of a public body or institution.

A medical practitioner who is also a district medical officer of health shall be entitled under this subsection to the same fee as if he were not such an officer.

(7) The county council shall repay to every sanitary authority the fees paid by that authority in respect of the certificates whereof copies have been sent under this section to the council.

(8) This section shall apply in relation to every building, vessel, tent, van, shed or similar structure used for human habitation, in like manner as nearly as may be as if it were a house; but nothing in this section shall apply in relation to any house, building, vessel, tent, van, shed or similar structure belonging to His Majesty, or to any inmate thereof, or to any vessel belonging to any foreign government.

(9) The acceptance of any payment under this section by a medical practitioner shall not disqualify him for being a member of the county council or of a sanitary authority or for holding any other public office.

(10) In this section "house" means a dwelling-house, whether a private dwelling-house or not: Provided that where a patient is an inmate of a house in which two or more households live the part of the house used by the household of which he is a member shall for the purposes of this section be treated as a separate house. [189]

## SECOND SCHEDULE

### *Form of Certificate*

To the Medical Officer of Health of.....

I hereby certify and declare that in my opinion.....(\*)  
an inmate of.....(†), is suffering from scabies.

Age of Patient..... Sex of Patient.....

Date of onset of disease.....19.....

If patient is inmate of a hospital, the place from which the patient was brought to the hospital.....

Date on which patient was so brought.....19

If case occurred in private practice.....

If case occurred in practice as medical officer of a public body or institution and if so, what body or institution.....

Signed.....

Medical Practitioner.

Address .....

Dated the.....day of.....19.....

[190]

\* \* \* \* \*

\* Insert full name.

† Insert full address.

## THE JAUNDICE REGULATIONS, 1943

*P. R. & O., 1943**November 17, 1943*

103669.

Whereas the Minister of Health is empowered by section 143 of the Public Health Act, 1936, to make regulations with a view to the treatment of persons affected with any epidemic, endemic or infectious disease and for preventing the spread of such diseases, and by such regulations to apply, with or without modifications, to any disease to which the regulations relate any enactment relating to the notification of disease or to notifiable diseases ;

And whereas the diseases hereinafter specified are epidemic, endemic or infectious diseases ;

And whereas the Minister of Health is further empowered by section 283 of the said Act to prescribe the form of any certificate to be used for any of the purposes of the said Act :

Now therefore the Minister of Health hereby certifies under section 2 of the Rules Publication Act, 1893, that on account of urgency the following regulations should come into operation immediately, and in exercise of his powers under the said sections 143 and 283, and of all other powers enabling him in that behalf, hereby makes the following regulations to come into operation forthwith as provisional regulations :—

1.—(1) These regulations may be cited as the Jaundice Regulations, 1943.

(2) These regulations shall apply to the administrative counties or parts of such counties and to the county boroughs specified in the first schedule to these regulations, and shall be enforced in every district within the said counties or parts of counties and in the district of each of the said county boroughs by the local authority.

(3) Every local authority shall give notice of these regulations by advertisement in a local newspaper circulating within their district and in such other manner as they think sufficient for informing persons interested, and shall also send a copy to each registered medical practitioner who after due inquiry is ascertained to be practising within the district. [191]

2. The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [192]

3. Sections 144 to 146 of the Public Health Act, 1936, being enactments relating to the notification of disease, shall as modified and set out in the third schedule to these regulations apply to the disease specified in the second schedule to these regulations. [193]

4.—(1) Upon the receipt of a certificate under these regulations or on becoming aware in any other way of a case or suspected case of a disease specified in the said second schedule in a district the medical officer of health or an officer of the local authority acting under the instructions of the medical officer of health shall make such inquiries and take such steps as are necessary or desirable for investigating the source of infection for preventing the spread of infection and for removing conditions favourable to infection :

Provided that nothing in this regulations shall be deemed to authorise the medical officer of health or other officer of a local authority to take any of the steps herein mentioned at any institution other than one belonging to a local authority except with the consent of the managers of that institution.

(2) The duties assigned to a medical officer of health by the Sanitary Officers (Outside London) Regulations, 1935, shall be deemed to extend to and to include all action by a medical officer of health in the execution of these regulations. [194]

5. The form set out in the fourth schedule to these regulations is hereby prescribed as the form of certificate to be used for the purposes of these regulations. [195]

### FIRST SCHEDULE

#### AREA TO WHICH REGULATIONS APPLY

Administrative counties or parts thereof :—

Bedford, Cambridge, Essex (except the boroughs of Barking, Chingford, Dagenham, Ilford, Leyton, Walthamstow, and Wanstead and Woodford, and the urban districts of Chigwell and Waltham Holy Cross), Hertford (except the urban districts of Barnet, Bushey, Cheshunt, and East Barnet, and the rural district of Elstree), Huntingdon, Isle of Ely, Norfolk, Suffolk, East and Suffolk, West. Great Yarmouth, Ipswich, Norwich, Southend-on-Sea. [196]

County boroughs :—

### SECOND SCHEDULE

#### DISEASES TO WHICH REGULATIONS APPLY

Catarrhal jaundice.  
Acute inflammation  
Acute necrosis  
Acute yellow atrophy } of the liver.

Toxic jaundice.  
Infective jaundice.

[197]

### THIRD SCHEDULE

#### PUBLIC HEALTH ACT, 1936

*Section 144.*—(1) When an inmate of any building used for human habitation, not being a hospital in which persons suffering from an infectious disease are received, is suffering from catarrhal jaundice, acute inflammation of the liver, acute necrosis of the liver, acute yellow atrophy of the liver, toxic jaundice or infective jaundice, every medical practitioner attending on, or called in to visit, that inmate (in this section referred to as "the patient") shall, as soon as he becomes aware that the patient is suffering from any of those diseases send to the medical officer of health of the district in which the building is situate a certificate in the prescribed form.

(2) Any medical practitioner who fails to send a certificate which he is required by this section to send shall be liable to a fine not exceeding forty shillings.

*Section 145.*—(1) A local authority shall, upon application, supply forms of certificate for use under the last preceding section free of charge to any medical practitioner practising in their district, and shall pay to a medical practitioner for each certificate duly sent by him under that section a fee of two shillings and sixpence if the case occurs in his private practice, and a fee of one shilling if the case occurs in his practice as medical officer of any public body or institution.

(2) Where the medical practitioner attending a patient is himself the medical officer of health of the district, he shall be entitled to the fee to which, if he were not the medical officer of health, he would have been entitled in respect of a certificate sent by him to the medical officer.

*Section 146.*—(1) Where a case of such a disease as aforesaid occurs in a building in the occupation of any of His Majesty's forces, or of any person employed by or under the Admiralty, the Army Council, or the Air Council, it shall be the duty

of the medical practitioner attending the patient to certify the case to the medical officer of health of the district, if it would have been his duty so to certify it had it occurred in a building in private occupation.

(2) Unless the medical practitioner is a medical officer holding a commission in His Majesty's Forces, the local authority shall pay to him for the certificate a fee of one shilling whether the case occurs in his private practice or not. [198]

#### FOURTH SCHEDULE

##### FORM OF CERTIFICATE

To the Medical Officer of Health of.....

I hereby certify and declare that in my opinion.....(\*)  
an inmate of.....(†), is suffering from  
.....

Age of Patient..... Sex of Patient.....

Date of onset of disease.....19.....

Signed .....

Medical Practitioner.

Address .....

Dated the.....day of.....19.....

[199]

\* \* \* \* \*

\* Insert full name.

† Insert full address.

Circular 2883

*Local Authorities (Eastern Region).  
County Councils (Eastern Region),  
for information.*

MINISTRY OF HEALTH,  
WHITEHALL,  
LONDON, S.W.1.  
27th November, 1943.

SIR,

#### NOTIFICATION OF JAUNDICE

1. I am directed by the Minister of Health to bring to your notice the enclosed copy of the Jaundice Regulations, 1943, which have been made as provisional regulations to come into operation immediately, and to have effect in all districts in the Eastern Region. The Regulations provide for statutory notification to Medical Officers of Health of the following forms of jaundice, namely,

Catarrhal Jaundice,  
Acute Inflammation of the Liver,  
Acute Necrosis of the Liver,  
Acute Yellow Atrophy of the Liver,  
Toxic Jaundice,  
Infective Jaundice. [200]

2. There is evidence of an increasing prevalence of infective types of jaundice about which the Minister feels some concern, and special investigations have been undertaken by an expert team working at Cambridge in collaboration with the Medical Research Council. An intensive study is being made of the epidemiology and pathology of this type of disease, of which little is at present known, in order to bring it under control and to establish effective methods of treatment. [201]

3. It is important for this purpose that the fullest possible information should be obtained about the incidence of the diseases named above for a length of time over a substantial geographical area. The Minister has concluded that this can only be done through compulsory notification ; and that it is expedient to select the Eastern Region, since it is the area in which the research centre is situated. He feels sure that he can rely on the co-operation of the Local Authorities in this Region in this important and urgent medical investigation. [202]

4. Special arrangements will apply to notifications received under the new Regulations (as distinct from other notifications of infectious diseases). The Medical Officer of Health should send the actual forms of notification at the end of each week in a sealed cover to the Regional Medical Officer, Ministry of Health, 12, Queen Anne Terrace, Cambridge, who will return them to the Medical Officer of Health after extracting information from them for the purposes of the research team. A nil return should be made for any week in which no notifications are received. The Medical Officer of Health is not required to include any entry in respect of these jaundice notifications in the weekly return of infectious disease notifications made on the card which is sent weekly to the Registrar-General (and in the case of County Districts to the County Medical Officer of Health). [203]

5. If the evidence received suggests an outbreak of some dimensions, the research team may have recourse to field work which should be of assistance to Medical Officers of Health and practitioners in the diagnosis and treatment of these diseases ; but it should not be expected that the team will undertake field work on individual cases. [204]

6. The Authority is asked to see that in accordance with Article 1 (3) of the Regulations they are brought to the notice of all medical practitioners practising within its area and also that information about them reaches the public. [205]

7. I am to add that in relation to these Regulations, having regard to the special purpose for which they are being applied in the Eastern Region only, the Minister will be prepared, on application to the Regional Finance Officer at the address mentioned in paragraph 4 above, to reimburse to Local Authorities the amounts of the fees paid by them to medical practitioners for making the notifications as prescribed in the Third Schedule to the Regulations (Section 145 and Section 146 (2)). [206]

8. Copies of this Circular and of the Regulations are being sent to the Medical Officer of Health. [207]

I am, Sir, etc.

\* \* \* \* \*

The Clerk to the Authority.

Circular 2734

*To all Local Authorities.*

MINISTRY OF HEALTH,  
WHITEHALL,  
LONDON, S.W.1.

4th January, 1943.

SIR,

### INSULIN

1. I am directed by the Minister of Health to say that he has had under review, in consultation with the President of the Board of Education, the arrangements under which insulin may be supplied either free of cost or at a



reduced price to persons suffering from diabetes. These arrangements include the provisions made under the National Health Insurance Acts, the Poor Law Acts, the Education Acts, and the Public Health Acts. [208]

2. *National Health Insurance Acts*.—An insured person while entitled to medical benefit may obtain insulin free of charge if it is prescribed or dispensed for him by his insurance practitioner. [209]

3. *Poor Law Acts*.—Insulin may be provided as a part of medical relief for any destitute person whose condition requires it. [210]

4. *Education Acts*.—Under Section 80 (1) of the Education Act, 1921, it is the duty of the Local Education Authority for Elementary Education to make such suitable arrangements as may be sanctioned for attending to the health and physical condition of children attending public elementary schools. Subsections (2) and (3) of the same Section confer powers to carry out similar duties on a Local Education Authority for Higher Education with respect to children and young persons attending certain specified types of schools or educational institutions. [211]

5. In a few cases sanction has been given by the Board of Education under this Section for the supply of insulin free or at reduced rates to public elementary school children where the parent could not afford to pay the whole cost. This sanction is now extended so as to enable all Local Education Authorities, until the termination of the present war, to supply insulin free or at reduced rates to all the children and young persons to whom the Section applies. [212]

6. *Public Health Acts*.—There still remain some classes of persons (*e.g.* the dependants of insured persons, widows and spinsters engaged in household duties, and merchant seamen on foreign-going ships) for whom no public provision is made apart from poor relief and who find that the increase which has occurred in the cost of insulin since the beginning of the war is a substantial burden. The Minister thinks that these cases will best be met by the use of the powers of Section 177 of the Public Health Act, 1936, and Section 227 of the Public Health (London) Act, 1936, under which an Authority may, with the Minister's approval or consent, provide a temporary supply of medicine for the poorer inhabitants of their district. A few Authorities are already making use of this power and the Minister hereby gives the necessary approval or consent to enable all the Authorities to which the Sections apply to provide supplies of insulin for persons suffering from diabetes among the poorer inhabitants of their district until the termination of the present war. [213]

7. *Supply*.—Supplies of insulin should of course be provided only in accordance with a medical prescription, and most Authorities will probably find it convenient to exercise their powers by means of orders entitling the patient to obtain the requisite supply from a chemist. Any such order unless it is given by reference to the terms of a prescription should specify the kind of insulin required (*i.e.* insulin, protamine insulin with zinc or delay insulin), the strength, and the quantity to be supplied. Where the type required is available in a hospital pack this will usually be found to be the most economical. [214]

8. *Advertisements*.—I am to take this opportunity of informing the Authority that under the proviso to Section 8 (1) of the Pharmacy and Medicines Act, 1941 (which prohibits subject to certain exceptions the publication of advertisements calculated to lead to the use of any article for the treatment of diabetes and some other specified diseases), the Minister has sanctioned the publication of any advertisement referring to insulin "in terms which are calculated to lead to its use for the purpose of the treatment of human beings for diabetes, but not otherwise referring to any article or



articles of any description in such terms as are mentioned in the said subsection ". The only other sanction which has been given under this Section is the one referred to in Circular 2493 of the 30th September, 1941, sanctioning any advertisement falling within the terms of the subsection and published by the Central Council for Health Education. [215]

9. A copy of this circular is being sent to the Medical Officer of Health. [216]

I am, Sir, etc.

\* \* \* \* \*

The Clerk to the Authority.

Circular 2753

County Councils (for  
information) }  
County Borough Councils } England and  
Urban District Councils } Wales.  
Rural District Councils }  
Common Council of the  
City of London.  
Metropolitan Borough Councils.

MINISTRY OF HEALTH,  
WHITEHALL,  
LONDON, S.W.1.

6th January, 1943.

SIR,

## DIPHTHERIA IMMUNISATION

### EMPLOYMENT OF GENERAL PRACTITIONERS

1. I am directed by the Minister of Health to refer to a Circular letter to Medical Officers of Health dated 8th May, 1942, in which the Chief Medical Officer emphasised the importance of the artificial immunisation against diphtheria of children of pre-school age, not only because the younger the patient the greater is the likelihood of a fatal issue from diphtheria, but also because experience shows that permanent diminution in the incidence of diphtheria in a community cannot be obtained unless the majority of the children of these ages are immunised. [217]

2. At first, County Councils and Local Authorities naturally gave their attention to school children and those of pre-school age attending Maternity and Child Welfare Centres. Here were ready-made and convenient places with lists of children available, and the Minister is glad to learn from the reports of his officers how well authorities have availed themselves of this position, and how too they have attempted to cater for pre-school children not taken to the Centres. [218]

3. The time has now arrived to ascertain by whatever means are available—information from health visitors, local food officers, etc.—in every district the children not yet immunised, and to make such arrangements as are adequate in any particular circumstances. The Minister holds the view that if, for some reason or another, it is not found possible to secure the attendance of a child at some convenient Centre, such a child should be treated at home, and to this end the services of medical practitioners in their capacity as family doctor should be utilised. The use of medical practitioners for domiciliary immunisation is not to be regarded as precluding their employment at centres where these are provided, but as supplementary to it. [219]

4. The Minister would therefore urge Local Authorities again to invite general practitioners to co-operate particularly in securing the immunisation

of infants and young children, at the same time informing them that the necessary prophylactic will be provided in suitable containers free of cost, and of the fee which they are prepared to pay. [220]

5. A copy of this Circular is being sent to the Medical Officer of Health. [221]

I am, Sir, etc.

\*

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\*

The Town Clerk

or

The Clerk of the Authority.

### Circular 2831

MINISTRY OF HEALTH,  
WHITEHALL,  
LONDON, S.W.1.  
2nd July, 1943.

To Welfare Authorities  
(England).

### INFESTATION BY HEADLICE

SIR,

1. I am directed by the Minister of Health to state that he has had much in mind the question of infestation by head-lice. A circular was issued to local authorities in March, 1941, on this subject, and last year he referred to a Sub-Committee of his Advisory Committee on the Welfare of Mothers and Young Children the question of what action might be taken by Welfare Authorities within the scope of their present powers to assist mothers and young children in the promotion of cleanliness and good habits and the elimination of verminous conditions. [222]

2. The Sub-Committee have submitted two reports in which it is recognised that the primary responsibility for the cleanliness of the children rests with the mothers and that the problem is in fact a home and family one; with this the Minister agrees. This being so, the education of the mothers, present and future, is felt to be of the first importance and the Minister trusts that Health Visitors, midwives and all those whose duty and privilege it is to help and advise expectant mothers will lose no opportunity of impressing upon them the importance of cleanliness and freedom from vermin in addition to the other matters which affect the health and well-being of themselves and of the baby to be born. [223]

3. As regards the children under five, the Minister is again in agreement with the Sub-Committee, who suggests that Health Visitors should include the examination of the children's heads (though not the cleansing) as part of their work both in the homes and in the clinics.

In many areas economy of effort is secured by visitors concentrating on those homes that are known to be in most need of help and the Minister suggests that this practice should be generally adopted. He appreciates that an essential preliminary to good results is to establish such relations with the households that the help and co-operation of the mothers in this work will be readily secured, and also that to press for such an examination without first securing this co-operation may prejudice the whole object of the suggestion. He is well aware that many health visitors already make such an examination and he knows that present circumstances make it difficult to carry out routine duties, and still more difficult to expand them, particularly where the special attention which Health Visitors have been asked to give to diphtheria immunisation already encroaches largely on their time; but war-time increases both the liability to infestation and the

need to control it. It is not necessary to emphasise the increased importance of guarding against the spread of disease or the risks that accompany overcrowding, in areas where the needs of industry or other causes have produced a scarcity of housing accommodation: these and other considerations will, the Minister believes, lead local authorities to redouble their efforts to combat lice. [224]

4. The increased attention now paid to hair dressing has not had the good effect that might have been expected, and, indeed, when the expense of a professional treatment means that intervals between visits to the hairdresser are long, the effect has been bad. The first and best line of defence must always be cleanliness and nothing can take the place of regular weekly washing and daily brushing and combing of the hair. The Health Visitor may be able to make clear to adolescent girls in the family (either directly or through the mothers) that this not only produces cleanliness but gives a better appearance to the hair than any elaborate hair dressing which makes regular brushing impracticable. Mothers should also be advised that the hair of young children, up to the age of five at least, should be kept short. Talks to mothers at the Centres as well as at home visits should help on the educational side. [225]

5. Where a head has become accidentally infested careful combing may be enough to get rid of the pest, but it is recognised that suitable combs are scarce. On the Minister's suggestion, the President of the Board of Trade has agreed to increase the supply, as far as possible, so that strong, fine-tooth combs may be made available in sufficient numbers. It is suggested that suitable combs might be provided, for sale or on loan, at the clinics. [226]

6. For severe cases of infestation it is considered that the best insecticide is the preparation known as Lethane Hair Oil (384—"Special"), and particular attention is called to a memorandum on Control of Head Lice (Memo. 203A/Med.) issued by the Ministry of Health in March, 1943. [227]

7. On the more general question of cleanliness and good habits, the Sub-Committee have made various suggestions with which the Minister agrees generally. The chief of these is that in order to improve the general standard of cleanliness and habits, Health Visitors should give more of their attention to the children between two and five and should concentrate largely, in their visiting, on the homes which they know to be the least satisfactory in these respects. The Minister therefore suggests that the homes in each Health Visitor's district should again be classified and that the Visitors should concentrate on those most in need of their attention.

Reference has already been made to this point in paragraph 3 above. In certain cases the most satisfactory results may be secured by paying occasional visits early or late or about tea-time so that help may be given to the mothers in establishing the right hygienic routine in washing, in the care of the hair and teeth, the use of the lavatory, the taking of a proper morning meal, etc. Here again, as will be generally appreciated, the first necessity is to secure such relations with the mother that the visits will be acceptable. It may be that such an extension of their duties in addition to diphtheria immunisation will necessitate the employment of additional Health Visitors, when they are available, but it seems probable that in the past the care of the infant, which has led to such happy results in the reduction of infant mortality, may have absorbed too exclusively the attention of Health Visitors, and the Minister hopes that the habits of older children under school age may now receive a larger share of their time and care. [228]

8. In some areas, where the Health Visitors are also School Nurses, it will be possible, by personal knowledge of the children, to carry on the

individual work to some extent. Where the two officers are different, the closest co-operation and exchange of information is desirable. [229]

9. The Council will be aware that the Central Council for Health Education have a poster dealing with lice and a pamphlet "War Against Lice", which are available at approximately the bare cost of production for the assistance of Authorities in educating the public in this matter. The Central Council have also produced a sound film on the louse which will shortly be available in 16mm. size for hire by Authorities. Every opportunity should be taken by these and other means to bring to the notice of the public the steps they can take to reduce infestation to the minimum. [230]

10. The Minister would be glad to have a special reference to the steps taken in pursuance of this Circular included in the next Annual Report of the Medical Officer of Health, to whom a copy of this Circular is being sent. [231]

I am, Sir, etc.

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#### Circular 2794

MINISTRY OF HEALTH,  
WHITEHALL,  
LONDON, S.W.1.

22nd April, 1943.

*County Councils.*  
*County Borough Councils.*  
*Joint Tuberculosis Boards.*  
*Common Council of the City of*  
*London.*  
*Metropolitan Borough Councils*  
*(England).*

SIR,

### TUBERCULOSIS

I am directed by the Minister of Health to refer to Circular 2741 of the 18th December, 1942, and to enclose a copy of a Memorandum on the subject of mass miniature radiography and maintenance allowances for persons undergoing treatment for pulmonary tuberculosis and their dependants, which has been prepared in consultation with medical experts and with representatives of Tuberculosis Authorities.

War-time difficulties of supply have delayed delivery of the radiographical units, but the first two units allocated to civilian purposes have now been received. The first is being used in the training of personnel required for the operation of the sets. The second was allocated to the Lancashire County Council and has been delivered. Steady progress is now being made with the sets and it is hoped that delivery of the remainder will be completed in the next 12 months. The remaining sets for England and Wales have been allocated as follows:—

- |                                  |                                 |
|----------------------------------|---------------------------------|
| 1. London County Council.        | 9. Essex County Council.        |
| 2. Middlesex County Council.     | 10. Portsmouth.                 |
| 3. Surrey County Council.        | 11. Bristol.                    |
| 4. Wales (Welsh National         | 12. Manchester.                 |
| Memorial Association).           | 13. Sheffield.                  |
| 5. Staffordshire County Council. | 14. Birmingham.                 |
| 6. Leeds.                        | 15. Liverpool.                  |
| 7. Newcastle-on-Tyne.            | 16. Norwich.                    |
| 8. Nottingham.                   | 17. Northampton County Council. |

Each of these Authorities will be given advance notice of the probable date of delivery. Authorities will also be advised of practical experience gained in the working of the sets first delivered.

Early diagnosis, so necessary to the successful treatment of tuberculosis, should be materially assisted by the use of miniature radiography. The advantages of early diagnosis, whether made as a result of examination by miniature radiography or otherwise, will, however, only be secured if treatment is undertaken in accordance with medical advice. Persons in need of treatment which makes it necessary for them to leave their work temporarily will be able to undertake this only if they can do so with confidence as to the maintenance of those who look to them for support. The maintenance allowances which are described in the latter part of the Memorandum are meant to secure this object. They include provision not only for the period while the individual is unable to undertake any work but for the period of gradual restoration to full working capacity, for instance, the period after successful treatment in a sanatorium during which the individual is able to undertake such limited amount of employment as the Tuberculosis Officer judges to be suitable to his condition.

In the circular of December 18th last, Authorities were advised of the broad outlines of the scheme which was being worked out and were asked to make administrative preparations in advance. The Minister trusts that Authorities will be able to complete as soon as possible the necessary arrangements to enable them to deal with individual cases. He will be glad to be informed within the next month of the date when the arrangements will be put into operation in their area.

A copy of the Memorandum and enclosure has been sent to the Medical Officer of Health direct, and an addition copy of the Memorandum is enclosed for the Finance Officer. [232]

I am, Sir, etc.

\* \* \* \* \*

The Clerk of the Council or Joint Board.

The Town Clerk.

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Memo. 266/T

## PULMONARY TUBERCULOSIS

### INTRODUCTORY

1. In the years before the present war, one of the most encouraging signs of progress in public health was the gradual reduction in the number of deaths from pulmonary tuberculosis. Since a tuberculosis service began to be actively developed in 1911, there has been a decline in the number of deaths from some 38,000 in that year to 22,000 in 1938. Developments in medical and scientific knowledge, the preventive and curative action by the health authorities, the spread of healthy habits among the population as a whole have all had their part to play in the gradual decline of this social disease. [233]

2. But in war-time there are inevitably a number of conditions which are likely to prejudice progress and in fact there has since the beginning of the war been a rise in the incidence of tuberculosis. The number of deaths from pulmonary tuberculosis since 1939 has been approximately 22,000 in 1939, 24,000 in both 1940 and 1941, and (as a provisional figure) 21,000 in 1942. Experience of the trend of the disease during the last war suggests that a fresh rise in the curve may yet be expected, and that any complacency would be a mistake. [234]

3. At the request of the Minister the Medical Research Council appointed a Committee to advise on the measures that could be taken to check the spread of the disease. Their report was published in October, 1942 (Special Report Series No. 246), and a copy has been sent to the Medical Officer of Health. On 18th December, the Minister issued to Authorities a Circular (2741) to advise them of the general lines in regard to which he considered it desirable that action should be taken by them. The present Memorandum sets out in greater detail the various aspects of the problem which immediately concern local authorities—dealing in particular with examination and diagnosis, treatment and welfare; for a proper scheme of an Authority must make adequate provision for all these aspects. [235]

#### EXAMINATION AND DIAGNOSIS

4. Pulmonary tuberculosis may be insidious in its onset and in the early stages of its development. The patient may feel perfectly well or he may feel "off colour" without any very definite or alarming symptoms and he may in consequence delay to seek medical advice until the disease has become so firmly established that the prospects of recovery are seriously diminished; even where recovery is still probable, the time necessary to effect restoration to normal health is likely to be much greater than if the disease had been diagnosed earlier. Early diagnosis must therefore be the first objective of any campaign for controlling the spread of the disease. [236]

5. The value of early diagnosis of tuberculosis has long been recognised but the rising incidence of the disease calls in the first place for more energetic use of established methods of detection. Of these the chief is the examination of close contacts of persons known to suffer from pulmonary tuberculosis—the most fruitful source of new infections. Here a first examination is the main requirement, but the re-examination of children under five years of age and of young adults is highly desirable. In addition, X-ray examination, and re-examination at intervals, should be undertaken for all known cases of pleurisy and erythema nodosum in young people, whether they have been in hospital or not. [237]

6. Recent research and experiment have suggested a new line of attack by indicating the possibilities inherent in an extended use of radiography. Radiography has been in common use for many years as a method of detecting disease, but a technique for using miniature films has recently been developed which is not only less costly but much more rapid in operation. The development holds considerable promise for the early diagnosis of chest disease in general and of pulmonary tuberculosis in particular. [238]

7. It may well be that miniature radiography will in the future form an established part of any routine health examination particularly where groups of individuals are concerned, but at present supply difficulties limit the number of sets of the necessary apparatus that can be produced and its use can only be selective. It will be understood that examination by miniature radiography does not imply suspected illness in the person examined. It is to be expected that whatever sample groups are examined in this way the examination will in the vast majority of cases disclose nothing more than the fact that there is nothing amiss. Most people who feel well and healthy are so: the radiographical examination, like any other routine check, will give support to their feeling of well being. The photograph, however, may show departures from normality which have not given rise to perceptible symptoms and are not readily detectable by clinical examination, and arrangements would then be made for any more detailed examination that is considered necessary as a result of the expert's study of the photograph. [239]



8. The sets by which mass radiography is operated are the result of long and careful expert work : from the individual's point of view the process is simple and takes but a few seconds. The individual's willing co-operation is, however, essential to success and when equipment is available the existence of these facilities must be made known and the time and places for their use arranged in such a way that those to whom the opportunity is afforded will gladly avail themselves of it. [240]

#### ARRANGEMENTS FOR USE OF MINIATURE RADIOGRAPHY

9. The arrangements for the use of Miniature Radiography are a matter for the determination of the Authority owning the set. The main points for consideration will be—(i) to whom should facilities be offered ? (ii) where should the unit be established ? (iii) how should the arrangements for its use be made known to those concerned ? [241]

10. The early use of the sets which can be made available in the next few months must necessarily be experimental to a considerable extent. The scope of the work that can be done and the groups that should have priority may require to be reviewed both by the Department and by Authorities in the light of experience gained in this way. [242]

11. There is a limitation on the use of the unit, lying not so much in the number of photographs that can be taken but in the number of persons that can conveniently be brought together at one place at one time and in the number of photographs that can be examined by the expert staff available. So long as the limitation on the supply of sets exists, the local authority should endeavour to concentrate on the examination of selected groups of the population. The groups to be selected may well vary from place to place in the light of local conditions and it is not proposed, at least during the initial period while the scheme may be regarded as experimental, to attempt to lay down any rigid conditions governing the selection of groups. The main considerations will no doubt be (a) the desirability of selecting groups that can conveniently be brought to, or dealt with at, a single centre, and (b) the facts that, on the one hand, adolescents and young adults are the most susceptible to tuberculosis infection and that, on the other hand, experience has shown that there is a relatively larger amount of unsuspected tuberculosis in middle-aged people and that these are frequently sources of infection. These considerations point to an appropriate selection from among organised groups that can be readily assembled at the place where the set is installed. Appropriate groups of these classes may be found, *e.g.* among school leavers, students in teachers' Training Colleges, among staff employed by the Authority themselves or by large public utility commercial or industrial undertakings. Account should also be taken of the advantages of radiological examination of pregnant women attending at Maternity and Child Welfare Clinics. [243]

12. The Authority would, of course, work out any arrangements for the examination of school children and teachers in training respectively in collaboration with the Local Education Authority and training college authorities. In regard to persons in employment it will be important that representatives of the Trades Unions and of the Employers should be consulted in advance as to the arrangements to be made locally. [244]

13. At their conference at Edinburgh in September, 1941, the Trades Union Congress adopted a resolution urging that arrangements should be made in the case of young persons in industry for a thorough examination including an X-ray lung examination and for a further periodical examination of this kind. The Department have been in consultation with the Trades Union Congress in the working out of the arrangements for the use of miniature



radiography described in this Memorandum and are informed that the Congress support the arrangements now being made, and that they are requesting the local organisations affiliated to them to do all that is possible to secure the ready co-operation of workers to whom these facilities are offered, and to co-operate with the Authority in every practicable way in the working out of local arrangements. [245]

14. The Department has also consulted the British Employers Confederation and is informed that they too support the arrangements now being made and will co-operate as fully as possible. [246]

15. A matter for early settlement will be the places at which operational centres for the unit should be established. The standard unit can readily be dismantled when no longer required at one centre of examination and reassembled at another, but it is transportable rather than mobile. In general, therefore, persons will be brought to the unit for examination rather than the unit taken to them. This would normally be necessary, in any event, since the examination of a substantial number of persons at a time requires adequate accommodation for partial undressing, for orderly and speedy marshalling, and for recording. Examination centres must also have facilities adequate to meet the technical requirements of the work. As the scheme develops a greater measure of mobility will be called for in order that the service of the units may be carried to groups of people requiring examination where they are employed or otherwise normally assembled. In course of time Authorities will be enabled to acquire a suitably designed standard van for transporting the unit, equipped with a generator to supply it with power where no other sources of power-supply may be available. Under existing war-time conditions, however, such generators are not to be had, and this elaboration of the scheme cannot be proceeded with as yet. Meanwhile sufficient opportunities will be found to keep the units busy for some time to come, in operating in premises of one kind or another where the necessary power (see the Technical Report mentioned in paragraph 19) is available and which can suitably be used as examination centres reasonably convenient to the groups of persons to be dealt with. In certain circumstances it will no doubt be necessary, in order to reduce interruption of normal activity to a minimum and to secure the most efficient conduct of the examination, to consider provision of special transport to convey a number of persons at a time to and from the centre. [247]

16. It is suggested that in general an examination centre should be either a health centre or a hospital, suitably sited to be convenient of access for groups of the persons to be invited and suitable from a technical point of view. It is preferable that the unit should not be sited at a tuberculosis dispensary. [248]

17. In approaching representatives of employers and employed persons the following notes may be found useful :—

(1) The detection of tuberculosis at an early stage before it can lead to permanent impairment is in the interest of the individual worker, of the general body of workers and of the national production capacity.

(2) If tuberculosis is detected early by miniature radiography there is a greatly increased probability that it can be arrested by a comparatively short period of sanatorium or dispensary treatment, with the prospect of early return to working efficiency and the subsequent maintenance of a normal level of health. In many such cases no institutional treatment at all may be necessary, but the individual can continue to lead a normal life with a measure of care under skilled medical direction for a period. Other chest diseases, though not to the same marked extent, are likely to respond favourably to early treatment.

(3) The risk of infection to other workers will be reduced by bringing under suitable treatment and advice those in whom signs of active tuberculosis are disclosed.

(4) It should be made clear that it is for the individual to decide whether he will take advantage of the offer and no sort of pressure must be put on those invited. Nevertheless both employers and Trades Unions can give valuable help in educative work designed to make clear the wisdom of accepting the free offer of a routine check on physical condition, and to emphasise that, if disease should be present, early detection is the best way to attack and overcome it before it can permanently impair health. This aspect of the matter is, of course, one in which the co-operation of the local medical profession will be of special importance, but the simple proposition of protecting their own health and preventing themselves from being a source of infection to other members of their own family is one which should readily appeal to all.

(5) In planning the detailed arrangements, all possible consideration should be given to the individuals concerned and every endeavour made to minimise interference with work. The Minister hopes that, on their side, employers as a whole will encourage their employees to have the benefit of this examination by compensating them for time lost in attending for examination under the approved scheme. So far as the Government are concerned, they accept the principle that compensation will be paid for time off for the examination.

(6) It will be apparent, therefore, that, in planning arrangements for groups of persons, whether industrial workers or others, the Authority should work to a time-table. The scheme would obviously lose repute if after employers and others had gone to trouble in settling detailed plans for the examination, the apparatus and staff were not available to time or if long waiting periods were involved. Care in the timing of the arrangements is therefore of importance.

(7) Both workers and employers will need to be informed in general terms of the financial provision to be made for these persons who are found to require treatment which will involve their temporary abstention from work. Full particulars of these arrangements are contained in paragraphs 32-49 of this Memorandum. The Authority should consider in what form these arrangements and the local arrangements for giving effect to them should be made known. The Ministry has prepared a model leaflet explaining the allowances scheme which is printed in Appendix (A).

(8) It should be clearly made known that the result of the examination will not be disclosed to anyone but the individual concerned without his permission.

(9) Publicity to make clear the purpose of mass radiography, either by statements in the Press or by meetings will be desirable, before the arrangements are brought into operation in the district. Employers to whose workers facilities are offered may help by giving facilities for meetings. The National Association for the Prevention of Tuberculosis will be able to assist Authorities with publicity material, including a film.

[249]

#### CO-OPERATION BETWEEN AUTHORITIES IN THE USE OF SETS

18. As indicated in Circular 2741 it is intended that arrangements should be made by mutual agreement for the use of sets by local authorities other than those owning them. The Minister does not wish to suggest any hard

and fast financial basis for such arrangements; agreements should be independently negotiated between the particular authorities concerned. [250]

#### MINIATURE RADIOGRAPHY UNITS : FUNCTION, USE, STAFFING, EQUIPMENT AND RECORDS

19. While arrangements for supply have been in progress the Minister has had the advantage of consultation with an expert Advisory Committee on the functions, use, staffing and equipment of miniature radiography units. This Committee has presented a report to the Minister, which he has adopted, and a copy of which is enclosed. It should be carefully studied by the responsible officers of the Authority. [251]

20. The Minister has arranged for Wing-Commander R. R. Trail, M.C., M.D., F.R.C.P., to act as his consultant adviser in connection with the introduction of miniature radiography. Arrangements will be made in due course for him to visit centres at which miniature radiography has been established to give advice and assistance in the working of the sets and to co-ordinate the results obtained. [252]

21. If the best results are to be obtained from miniature radiography careful records must be kept. The basis of these records will be a card which is inserted in the machine at the time of exposure so that an identification number on the card is photographed on the film and secures identification of the film with the individual concerned. Supplies of these cards will be issued by the Ministry of the Authorities responsible for the miniature radiography units. The cards will be retained as permanent records by the Tuberculosis Authority concerned. A specimen of the card and advice as to the detailed procedure adopted is contained in the report of the expert advisory committee mentioned in paragraph 19. [253]

#### MINIATURE RADIOGRAPHY AND THE INDIVIDUAL

22. Miniature radiography enables arrangements to be made for the periodic examination of groups of supposedly healthy persons. Where no abnormality is found, all that is necessary is to retain on the records information which will enable the authority to offer re-examination at some date in the future: it is provisionally suggested that yearly intervals would be appropriate. Where some abnormality is found, a full size film will be required in order to assist in determining the nature of the abnormality. Where this is a condition which suggests tuberculosis, the case will become the concern of the Tuberculosis Officer concerned who will take the same action as he would take in any suspected case that comes to his notice in other ways. It will rest with him to persuade the person concerned to undergo the normal diagnostic examination by established clinical methods, following the usual practice of consultation with the patient's own doctor. [254]

23. The results of miniature radiography and of subsequent examinations in individual cases will be confidential and will not be disclosed without the individual's consent. No information about an individual's condition can therefore be given to the medical officer of the works at which he is employed, except with the worker's consent. But where miniature radiography has been applied to the staff of a particular establishment the statistical result of the examination as a whole should be communicated to the medical officer (if any) of the establishment concerned or to the appropriate Medical Inspector of the Ministry of Labour and National Service (Factory Department). [255]

## THE LOCAL AUTHORITY AND THE INDIVIDUAL

24. The foregoing paragraphs of this Memorandum carry the arrangements for the institution and operation of miniature radiography up to the point when in a particular case tuberculosis has been diagnosed. From this point onwards the action taken by the Authority will be the same as in cases when diagnosis of tuberculosis has been established in any other way. It is important that the arrangements to be made by the Authority should be simple and expeditious and designed with sympathy to help the individuals who are called upon to change their normal habits of life. [256]

25. In cases in which tuberculosis is diagnosed the Tuberculosis Officer should, in consultation with the patient's own doctor, do all that is possible to persuade the patient to undertake early treatment. It is not in any event easy to convince a man who feels perfectly well that he should undertake a fairly lengthy course of treatment and the difficulty is very much increased if he is earning a good income which will stop when he undertakes treatment. On medical grounds also it is desirable that the family of a tuberculous person should be well housed and nourished. To mitigate this financial difficulty therefore the Minister has made available to local authorities funds for the payment of allowances to persons who have to give up remunerative work in order to undertake treatment (see paragraphs 32-49). But even with these allowances, undertaking treatment will often mean a loss of income and it will be necessary to make clear to the patient that a temporary sacrifice of earning power, with a substantial prospect of early restoration, through free treatment, is better in the interests of himself and his family than to continue at work until he himself feels the need for treatment, with the accompanying risk of permanent damage to health and complete loss of earning power. For the purpose of these allowances, a person sent to a sanatorium for observation in order to confirm or correct a provisional diagnosis of pulmonary tuberculosis should be considered as undertaking treatment. [257]

26. The Tuberculosis Officer will advise whether this treatment should be carried out at home by the family doctor, with dispensary supervision, or should be given in an institution (taking into consideration the availability of accommodation in suitable institutions). The importance of persuading the patient to accept the treatment has already been mentioned. The maintenance allowances set out below are provided for the purpose of securing suitable treatment and they will therefore be conditional on the patient's undergoing the prescribed course of treatment, conforming to any advice given to him for preventing the spread of infection (so far at least as his housing and similar circumstances permit) and attending at the dispensary for examination as required. The facilities available for treatment and the help that can be given him should of course be made clear to him. In this work, personal contact between the patient and workers attached to the Tuberculosis Dispensary will be important and it is clearly desirable that as far as practicable he should throughout be able to look to one source for any advice and help that he may need. The natural centre for this purpose is the Tuberculosis Dispensary and the care organisation, whether voluntary or run by the Tuberculosis Authority, associated with the dispensary. [258]

27. The financial assistance to be given to the tuberculous person and his dependants should be regarded as a part of the approved treatment and the arrangements for assessment and payment, as well as those for advice, should be as closely associated with the dispensary organisation as local circumstances permit. The examination and assessment of applications must of course be handled by officers competent to deal with this kind of work. If there are not such officers already engaged on the tuberculosis work of the local authority, the authority should make available the services of officers

from other departments, but in discharging those duties they should act on behalf of the tuberculosis service and should in their contacts with the public, act and speak in its name, and their titles, for this purpose, should preferably indicate a connection with the tuberculosis service. [259]

28. A patient for whom treatment is recommended will naturally want to know, before he gives up his work to undertake treatment, what financial help he will receive from the Tuberculosis Authority. Every endeavour must therefore be made to determine quickly the amount of the allowance and the Authority will probably find it generally convenient to authorise the appropriate officers of the Council to decide on its behalf the amounts of the allowances to be given in individual cases. [260]

29. In general there is advantage in a system in which assessment and payment are carried out by different officers. In most cases therefore it may be found convenient that the actual payment of the allowances should be done by or under the supervision of the Financial Officers of the Council, whether at the Tuberculosis Dispensary, by post or through district offices, as may suit the circumstances of the area. [261]

30. The decision whether treatment should be provided in any particular case, and as to the form in which that treatment ought to be and can be provided, will rest with the Tuberculosis Officer. The determination of the amount of the allowance to be paid will rest with the Tuberculosis Authority but the extent to which such expenditure will be repaid to them by the Minister is indicated in paragraphs 32-49 of this Memorandum. It is obviously desirable that rates of maintenance allowance should be paid on a uniform scale throughout the country and the Minister suggests that any special provision that particular authorities or voluntary care organisations may desire to make should be confined to the objects normally pursued by Care Committees as described in paragraphs 35-37. The scale of the new allowances should greatly reduce the need for expenditure on the provision of extra nourishment for patients or their dependants. [262]

31. The above arrangements will need to be modified for the County of London in which the Metropolitan Borough Councils, as well as the County Council, have duties under the tuberculosis scheme for the County. The Minister understands that arrangements have been agreed between the London County Council and the Metropolitan Boroughs Standing Joint Committee under which the County Council will be responsible for, and will carry out the assessment of, the new tuberculosis allowances. The County Council will therefore be considered the Tuberculosis Authority for this purpose. The machinery of the tuberculosis dispensary, however, will be utilised to the greatest degree possible in connection with enquiries and the actual payment of allowances will be made by the L.C.C. through the Borough Council's dispensary organisation except in those cases where this is impracticable.

The Care Committee work, referred to in paragraph 35, will remain with the Metropolitan Borough Councils and the liaison arrangements necessary for the administration of the new allowances should be used to avoid overlapping of the two functions. [263]

#### ASSISTANCE TO INDIVIDUALS

32. At present, assistance may be given to individuals in one or more of the following ways—

(1) In the case of insured persons, under the National Health Insurance scheme.

(2) By Public Assistance Authorities.

(3) By Tuberculosis Authorities under their powers to make such arrangements as they think desirable for the treatment of tuberculosis or for the after care of persons who have suffered from tuberculosis.

(4) Disability Pensions or Treatment Allowances. [264]

33. Experience has shown that the assistance available in this way has not in all cases been adequate or appropriate and the Minister has reviewed the arrangements and decided to authorise a special measure of Exchequer assistance to Tuberculosis Authorities in respect of expenditure incurred by them in making grants to persons receiving treatment approved by the Authority under their tuberculosis scheme. It is not considered that any extension of the powers of Local Authorities is required in order to enable these grants to be made, and the powers of Local Authorities to afford assistance in other ways are not affected by the fact that expenditure for specific purposes and in accordance with defined limits will be reimbursed to them by the Ministry. [265]

34. The object of the arrangements now authorised is to provide adequate maintenance for persons undergoing treatment and their dependants, and to enable specific standing charges associated with the maintenance of the home to be met while the breadwinner is undergoing treatment. It is important in the Minister's view that the assistance given for this purpose should be associated with, and indeed form part of, the treatment: its administration should, therefore, be undertaken by the Authority responsible for providing treatment. [266]

35. In areas where Care Committees are functioning Local Authorities should bring them into close relation with the new arrangements. They will find that Care Committees will still be able to fulfil a useful purpose in providing, whether from voluntary funds or at the cost of the rates :

(a) ancillaries to medical treatment, such as additional comforts for the patients, extra clothing required for sanatorium life, extra nourishment for patients or their dependants, etc. ;

(b) training for employment, and later finding them jobs by approaching employers in the area (this work should be done in co-operation with the Local Officer of the Ministry of Labour and National Service, as described in paragraphs 56 to 59) ;

(c) help with the removal of patients and their families to better homes, or assistance with bedding to enable patients and contacts to sleep apart, thus preventing the spread of infection. [267]

36. There are at present 120 Care Committees affiliated to the National Association for the Prevention of Tuberculosis, and it is a condition of affiliation that the Committee shall form a recognised and integral part of the Tuberculosis Service of the Local Authority with the Tuberculosis Officer as Medical Adviser. In some areas the Care Committee is mainly voluntary. In other areas care work has been taken on by the Local Authority which has set up a Sub-Committee of its Public Health Committee, whilst in yet other areas the Committee is representative partly of the Local Authority and partly of voluntary bodies. The success of any Care Committee, irrespective of its composition, depends largely on the trained social worker or almoner acting as a link between the Committee, the patients and the Tuberculosis Officer and his dispensary staff. [268]

37. Under the new arrangements to be made it is important that close co-ordination should be maintained, through the Tuberculosis Officer, between the Local Authority and the Care Committee, to prevent any overlapping of effort and to ensure that the best advice and help are given to the patients and their dependants. In some areas it may be found convenient to arrange



for the almoner or social worker of the Care Committee to carry out duties also under the new scheme of allowances. [269]

38. It will be appreciated that the arrangements now authorised may need to be reviewed in the light of any future schemes adopted by the Government as a result of the Beveridge report or as a result of any general arrangements made for rehabilitation. The Minister has decided, however, that the need for special action as a war-time measure in regard to tuberculosis is urgent and should not await the working out of any general plans of a wider character. A main purpose of the action now to be taken by Authorities is to encourage individuals to undertake treatment as soon as it has been ascertained, whether as a result of the introduction of miniature radiography or otherwise, that treatment is necessary: the assistance, therefore, forms an integral part of the Government's policy of attacking tuberculosis by early diagnosis and treatment. The needs of the individual and the importance of securing proper treatment are not, however, governed by the date of the diagnosis or the stage of the disease: assistance from the Exchequer to Authorities will be available on the same conditions for all persons undertaking approved treatment for pulmonary tuberculosis under the tuberculosis scheme of the Authority. [270]

39. The assistance in respect of which expenditure will be reimbursed by the Exchequer will consist of—

(1) a standard rate of maintenance (described as "maintenance allowances") payable without inquiry into means (beyond inquiry to establish whether the employers are continuing to pay any wages during sickness and, if so, to what extent, the amount of any National Health Insurance benefit payable, and the amount of any treatment allowance or disability pension or pension allowances received from the Ministry of Pensions) to which will be added actual rent and rates up to a maximum of 15s. per week;

The maintenance allowance should meet the needs of the ordinary case, but for cases of special difficulty there will also be available, on application:—

(2) additional payments (described as "discretionary allowances") at the discretion of the Authority (acting normally through an appropriate officer) and after need has been established, towards meeting exceptional commitments, in the way of charges incurred for high rent, mortgage, education, insurance, hire purchase or the like, which were not unreasonably incurred before the need for treatment was known but which cannot be met unless some additional grant is made;

(3) other additional payments (described as "special payments") at the discretion of the Authority (acting normally through an appropriate officer) and after need has been established, for the purposes and in the circumstances described in paragraph 45 below. [271]

40. The persons who have been primarily in mind for the purpose of these arrangements are persons gainfully occupied and with dependants whose source of income necessarily ceases when treatment is undertaken. Allowances in such cases will be payable on condition that the treatment undertaken is approved by the Authority, whether this treatment is in an institution or not. Where the patient is in an institution the standard allowance will be subject to a deduction of 10s. per week to meet the saving due to residence in the institution. [272]

41. Standard allowances will, however, also be payable for persons without dependants whose source of income necessarily ceases when approved treatment is undertaken at home. Standard allowances will not be payable



in the case of persons without dependants who are undergoing institutional treatment, as they are fully maintained in the institution. The majority of these persons will be in receipt of benefit from Health Insurance Funds which would enable them to meet small current expenses. Provision is made, however, in cases where there are no resources available to the patient for these purposes, for making grants in respect of continuing charges or for a small allowance of pocket-money for the patient while in the institution. [273]

#### SCALE OF MAINTENANCE ALLOWANCES

42. The weekly scale of maintenance allowances in respect of which expenditure will be reimbursed by the Exchequer is as follows :—

Where the applicant (*i.e.* person receiving treatment) is a householder, which for this purpose includes a person living in lodgings, rooms or a hostel:—

	s.	d.
(a) For male applicant and wife, or female applicant with dependant husband (jointly) .. .. .	39	0
(b) For male or female applicant where rate (a) does not apply .. .. .	27	0
(c) For dependants (other than wife or husband):—		
Aged 16 and over .. .. .	12	0
Aged 14 and under 16 .. .. .	8	0
Aged 10 and under 14 .. .. .	6	6
Aged under 10 .. .. .	5	0

Where the applicant is a person living as a non-dependant member of a parent's or other relative's household, and is receiving treatment at home, an allowance of 25s. 0d. a week will rank for reimbursement. If such a person has dependants additional payments for the dependants will be payable as in (c) above. Dependency should be treated as a question of fact.

The scale rates will be increased by :—

(a) subject to the provisions of paragraph 43 (2) below, the actual rent payable (including mortgage interest payments and rates) up to a maximum of 15s. per week ;

(b) a winter allowance for householders or persons responsible for providing their own fuel of 3s. 6d. a week for 26 weeks from and including the week in which 1st November falls.

The scale rates will be decreased by :—

(a) the amount of any sickness or disablement benefit payable under National Health Insurance Act ;

(b) the amount of any disability pension or treatment allowance received from the Ministry of Pensions or other public funds wholly in respect of pulmonary tuberculosis or the excess over £1 a week of any similar payment from the Ministry of Pensions or other public funds in respect of any other disability. (Information about treatment allowances or pensions in payment can be got from the Regional Office of the Ministry of Pensions) ;

(c) the amount of any :—(i) payment received from employer ; or  
(ii) income from self-employment or occupation

in respect of the period of treatment ;

(d) 10s. per week where the patient is being treated in an institution.

43. The following points are to be noted :—

(1) It has been assumed as the basis of the tuberculosis treatment allowances set out above that the amount of income received by a person undertaking treatment for tuberculosis should not depend on whether or not he is entitled to sickness or disablement benefit under the National Health Insurance Act and that the practice of disregarding a part of such benefits, followed by the Assistance Board and by Public Assistance Authorities, was therefore not appropriate. The amounts of the tuberculosis allowances have been adjusted to take account of this different basis.

(2) In considering the amount of allowance for rent, account must be taken of the share attributable to other income-receiving members of the household. Normally a statement signed by the patient as to the proportion of the total rent paid by him should be accepted but, if there is ground for thinking that a reasonable allocation has not been made, the following principles should be used as a check. Where the patient is living with or has living with him persons who are not dependent on him, the amount of the rent addition will be determined by dividing the amount of the net rent \* into equal shares for each person excluding sub-tenants, living in the house (persons under 16 being counted as half a unit) and arriving at the patient's appropriate share for himself and his dependants. Thus if the net rent is 15s. and the occupants of the house are the patient, his wife, two children under 16, an earning son aged 16 or over and a boarder, the amount of the rent addition would be three-fifths of 15s., *i.e.* 9s.

In cases of this kind the payment that would be subject to the maximum of 15s. would be the amount of the rent attributable, on the procedure set out above, to the applicant, and not the total amount of the rent. [275]

#### DISCRETIONARY ALLOWANCES

44. These allowances, in contrast with the standard maintenance scales described above; will be paid only on special application by or on behalf of the patient and only on proof of need. Their purpose is to provide for cases where there are standing charges that cannot reasonably be met out of the standard maintenance scales. Repayment of expenditure incurred by an Authority in making a discretionary allowance will be governed by the criterion that, taking into account the resources available to him and his family while the patient is under treatment, the allowance is necessary to enable him to meet any standing charges in respect of reasonable commitments such as high rent, mortgage charges (including repayment of capital instalments in exceptional cases only where deferment cannot be arranged), insurances, educational charges or hire purchase charges. In considering applications for discretionary allowances, the joint income of the patient (while undergoing treatment) and his dependants should be taken into account, but capital should ordinarily be excluded from the assessment.

From the nature of the case, it is not practicable to lay down precise rules for the administration of discretionary allowances; applications must be considered on their merits, and it should be clear that the commitments have been reasonably incurred. The discretionary allowance should not exceed 10s. a week but, in any individual case it is considered that there is

\* Net rent means the amount of rent, including rates, actually paid less the net proceeds of sub-letting. Where the patient is the owner of the property the net rent will be the weekly proportion of any instalments of mortgage interest (but not principal), rates and other out-goings, *i.e.* repairs, insurance of the premises and war damage premiums, less the net proceeds of such sub-letting.

good reason for making a grant in excess of 10s. a week, particulars of the case and of the allowance recommended should be submitted to the Ministry.

Account cannot be taken of additional obligations incurred by the applicant after undertaking treatment except in the case of educational charges approved by the Authority as being reasonably required for the continued education of children. Education Authorities should be consulted in such cases, and in regard to the amount of the educational charges mentioned earlier in this paragraph. It may be possible to secure a reduction of the normal charges. [276]

#### SPECIAL PAYMENTS

45. Expenditure incurred by the Authority in making payments for the following purposes will similarly be repaid from the Exchequer, where the Authority are satisfied that the expenditure is necessary and cannot, without hardship, be met out of the resources available to the patient and his dependants :—

(1) Reasonable travelling expenses incurred by near relatives (not more than two at any time) visiting a patient in an institution to which the cheapest return fare exceeds 2s. 6d. where the Medical Superintendent certifies that a special visit should be paid ; or otherwise at such intervals as the Tuberculosis Officer considers reasonable. In the administration of travelling allowances it should be remembered that the present need for reducing travel, particularly during the six months from September to April, must be weighed against the natural desire for visits and their stimulating effect on patients whose condition permits them to receive visits.

(2) Where the person undertaking treatment is the housewife and increased expenditure is involved in obtaining domestic help from outside the household in her absence, a special payment not exceeding 10s. a week.

(3) In the case of persons without dependants where the payments cannot be met out of N.H.I. benefit and any other available sources of income, a reasonable allowance not exceeding 5s. a week for pocket-money for patients while undertaking approved treatment in an institution and an allowance in respect of continuing commitments for rent, rates, insurance or hire purchase charges : the Authority must satisfy themselves as to the reasonableness for continuance of these charges while the patient is in the institution. [277]

#### PERSONS WITHIN SCOPE OF ARRANGEMENTS FOR ASSISTANCE

46. A primary object of the special measures of assistance described above is, as already indicated, to secure diagnosis and treatment at the earliest possible stage, with the twin objects of care of the individual and removal of sources of infection. By securing diagnosis and treatment at this stage the Tuberculosis Authority can make a most valuable contribution to the long-term policy of the gradual elimination of tuberculosis.

Particular care should, therefore, be taken to deal promptly and effectively with new cases coming to notice for the first time, whether arising from the operation of miniature radiography or in other ways : the co-ordination under the one authority of the arrangements for advice and assistance to tuberculous persons, will be an important administrative aid to this end, while the financial arrangements which provide for repayment from the Exchequer of specified forms of assistance will enable the Authority to see that individual cases are helped adequately.

The Authority will appreciate the importance of securing not only that new cases go for treatment in accordance with the medical advice which they receive from the Authority, but that those already undertaking approved treatment continue to do so, so long as this is medically necessary. So far as repayment from the Exchequer to the Authority is concerned, it will be open to the Authority to deal with applications from persons already under treatment on the same basis as new applications. If the Authority are in doubt as to the application of this Memorandum to individual cases in respect of which applications are received the Department will be ready to advise on a statement of the facts, but it is not contemplated that such reference should often be necessary. [278]

47. The object of the treatment allowances now made available is primarily (as stated in paragraph 25) for the assistance of those who have to give up remunerative work in order to undertake treatment. The justification of the expenditure is the expectation that if those persons undertake treatment early, instead of continuing to work at the risk of breakdown, there will be an increased prospect of restoring them to health and normal working capacity. In paragraph 46 it is said that it will be open to the Authority to deal with applications from persons already under treatment on the same basis as new applications, but in some of these cases difficulty may arise in determining what should constitute "treatment" for the purposes of these allowances. In one sense every person on the list of a tuberculosis dispensary may be said to be under treatment for tuberculosis so long as he follows the directions of the Tuberculosis Officer, but it is clear that the purpose of the allowances (as described above) cannot be met where treatment cannot do more than alleviate a chronic condition. "Treatment", therefore, for the purposes of these allowances should be interpreted as covering the following classes :—

(i) those recommended for institutional treatment who are waiting for admission and who have ceased work on the advice of the Tuberculosis Officer :

(ii) those under treatment in an approved institution or admitted to an approved institution for observation :

(iii) those who have received a period of treatment in an approved institution (a) in all cases for a period of six months after leaving the sanatorium for those not capable of resuming full employment in that period, (b) thereafter, for those capable of light work though incapable of full employment, the allowances may be renewed on the certificate of the Tuberculosis Officer, for two further periods of six months if further such remedial treatment is considered advisable. The Minister should thereafter be informed of individual cases which in the opinion of the Tuberculosis Officer require a further period of remedial treatment (but the allowances in such cases may continue until the Minister advises the contrary).

(iv) Exceptionally, for a period up to twelve months, cases in which the Tuberculosis Officer considers that the equivalent of approved sanatorium treatment can be effectively carried out at home, under his direction. The Department should be consulted where it is proposed to continue this form of treatment beyond twelve months. [279]

#### ARRANGEMENTS FOR DEALING WITH APPLICATIONS

48. Model forms of application for (1) Maintenance Allowances, (2) Discretionary Allowances and Special Payments, are contained in Appendix (B). The Authority should afford any practicable advice and assistance to individuals in completing the forms.

It will be necessary for the proper administration of the allowances to secure that correct information is given in support of applications. Tactful and experienced assessment officers will be able to prevent abuse with the necessary minimum of investigation. Verification of N.H.I. payment, payments by the employer during sickness or of payments from the Ministry of Pensions should be made through the source of the payment rather than by examination of the patient.

As regards discretionary allowances, it will be necessary to verify the amounts of the standing charges in respect of which the application is made, and the income of the household : with the object of demonstrating whether a discretionary allowance is necessary to enable the applicant to discharge commitments in respect of which the application is made. Repayments from the Exchequer will not be made in respect of any period before the date of application. [280]

49. When grants have been made it will be necessary to verify from time to time by visit or otherwise that there has been no change in circumstances which affects the continuance of the grant. Recipients of continuing grants should be required to certify once every three months that the particulars given in their application have not changed or to notify any necessary correction.

Where necessary it should be verified, by inspection of receipts if necessary, that standing charges (including rent in respect of which a rent allowance is being made) continue to be payable and are being duly paid.

The contract in relation to matters of general welfare which the Authority's officers will maintain with tuberculous persons and their dependants should enable them to discharge these duties with simplicity and efficiency.

The continued reasonableness of standing charges may require to be reviewed in some cases after a period of time but the Minister does not think it desirable to prescribe any particular period at the outset and a further communication will be sent to Authorities if experience of the working of the arrangements suggests that such action is necessary. [281]

#### TUBERCULOUS PERSONS AND EMPLOYMENT

50. If the best results are to be obtained from treatment, care must continue to be taken of those who have reached the quiescent stage until they are able to return to an ordinary day's work without danger of relapse. Provision has already been made for a limited class, in the arrangements described in Circular 2576 of the 24th February, 1942. The provision of grants for the maintenance of tuberculous persons and their dependants permits a more extended provision. [282]

#### REHABILITATION MEASURES IN SANATORIA

51. The Minister wishes to call the attention of Tuberculosis Authorities to the recommendation of the Tomlinson Committee on Rehabilitation (Cmd. 6415, paragraph 27) advocating the further development of rehabilitation measures applicable to patients in sanatoria who have reached a suitable stage in their treatment. Amongst the measures mentioned by the Committee are occupational therapy (which may be not only diversional in character but also designed to fit the patients for suitable employment on discharge), the provision of workshops and the employment of patients as temporary members of the staff, *e.g.* as gate porters, gardeners, or in assisting with nursing or domestic work. The Minister is aware that Authorities are already adopting measures of this kind in varying degrees in their institutions, and he recognises that full development on these lines is hampered at the present time by restrictions on building and the use of materials. He trusts, however, that Authorities will keep in mind the

importance of these adjuncts to treatment and of developing their use to the greatest extent possible under war-time conditions. [283]

52. As the Committee of the Medical Research Council point out re-entry into ordinary full-time employment entails a sharp change from no work at all or from a limited amount of work under sanatorium conditions, and the danger of relapse which this would involve is likely to be enhanced under the stress of war-time working and transport conditions. On the other hand employment which is timed and calculated to meet the capacity of the individual has great advantages both medical and psychological. [284]

53. A number of suggestions in regard to the provision of employment for tuberculous persons were made in the report of the Committee of the Medical Research Council. Suggestions in regard to a scheme for rehabilitation generally are made in paragraphs 61 and 62 of the report of the Tomlinson Committee (Cmd. 6415). [285]

54. The arrangements to be made for the employment of tuberculous persons will form one part of the scheme contemplated in that report, but pending the time when this can be brought into effect, the Minister regards it as important that the fullest possible assistance that can be given under the existing powers of Tuberculosis Authorities should be made available for persons suffering from tuberculosis who undertake employment approved by the Authority as a part of their treatment. It is proper that the provision of such employment should be considered as part of the complete treatment and Exchequer assistance will be available to Authorities in respect of various forms of expenditure, as indicated in paragraphs 32 to 47 of the Memorandum, incurred by them for this purpose. [286]

55. The Minister has been in consultation with the Minister of Labour and National Service and also with the British Employers Confederation and with the Trades Union Congress with a view to facilitating arrangements for employment. [287]

56. A judgment as to the time when work can with advantage be undertaken by the individual and as to the amount and kind of work which can be undertaken can best be formed by the Tuberculosis Officer in consultation with the medical advisers under whose care the individual has been whether in a sanatorium or at home. In view of the information as to available employment in the possession of the Ministry of Labour and National Service and their functions in regard to placing in employment, it is important that their Local Officer should be consulted at the stage when the individual is adjudged by the Tuberculosis Officer to have reached the stage of being fit for a measure of controlled employment, the Local Officer being informed of the amount and type of work which the individual ought to undertake. [288]

57. The Authority will, however, be able to give material assistance to the Local Officer of the Ministry of Labour and National Service in finding employment. By their knowledge of the capacity and limitations of the individual they are already the source to which he will naturally look for guidance, and they will be able to enlist the sympathy and support of local employers. The care organisation referred to in paragraphs 35 to 37 above can give valuable help in this work and the Authority may often be able to help by finding employment in their own service. The importance of controlled employment of this kind in bringing the individual back gradually to normal work should be made known to those who can help in this way and representatives of employers should be consulted with a view to securing their support and ensuring that the purpose and nature of the arrangements are properly understood. The best arrangements to be made for co-operation to this end will depend on local circumstances but the first step should be consultation with the Local Officer of the Ministry of Labour and National



Service (in counties the officer stationed in the county town) as to the best means of joint working. The advisability of establishing a small informal Committee consisting of representatives of the Local Authority (who may be either members or officers), the Ministry of Labour and National Service, of employers and employed, should be considered. The Minister is informed that this suggestion has the support of the British Confederation of Employers and the Trades Union Congress, and that the Minister of Labour and National Service will be glad to arrange for his Local Officers to serve on such Committees. [289]

58. It will be important that the kind and amount of work undertaken should be approved as appropriate to the medical needs of the individual. It will be for the Tuberculosis Officer to certify to this effect. [290]

59. As between employer and employed the rate of payment should be appropriate to the work to be done. Where there are recognised rates and conditions payment should be in accordance with them, allowance being made, if necessary, for the reduced amount of work which is appropriate to the medical condition of the individual. It is to be expected that employment in such cases will on medical grounds be part-time employment. Considerable elasticity will be required to make arrangements which are appropriate to the varying medical needs of individuals but it is thought that with goodwill and co-operation practical solutions will readily be found which will be recognised as fair both to the employer and the individual. Arrangements made as to rate of payment in individual cases should be reported to the Local Advisory Committee to which reference is made in paragraph 57. If the Committee is in any case not satisfied that the rate of payment is appropriate or if a rate cannot be settled by mutual agreement the representative of the Ministry of Labour and National Service on the Committee will get such advice as may be required from his Regional Office with a view to securing a settlement. [291]

60. For the purpose of repayment from the Exchequer to the Authority in respect of expenditure incurred by them in making allowances the Minister agrees that one-third of net earnings on part-time employment may be ignored in calculating the amount of allowances to be paid after part-time employment is undertaken, if the Authority are of opinion that this is reasonable in the circumstances of the case and if the net earnings with the allowance do not exceed four-fifths of the gross earnings of the individual before he undertook treatment.

In the case of a person who was earning low wages before he undertook treatment, so that the gap between allowances and wages is small, this requirement would sometimes react unreasonably on the individual and, in any such case, the Minister, on the fact being reported to him, would be prepared to consider authorising the Authority to depart from the requirement. [292]

61. When in the opinion of the Tuberculosis Officer full-time employment can be resumed in the occupation which the individual followed before undertaking treatment, or if the individual of his own choice takes up some other full-time employment, the reason for paying the allowance will cease. [293]

62. Finally, Tuberculosis Authorities will appreciate that the measures described or recommended in this Memorandum will place a heavy responsibility on their Tuberculosis Officers, because the application of these measures to the purpose of securing the diagnosis, treatment and rehabilitation of each individual patient will depend largely on the effective exercise of the Tuberculosis Officer's skill and professional judgment. The Minister is confident that authorities will delegate the fullest responsibility to these officers and will give them their fullest support and such assistance in the



performance of their responsible duties as is possible in the present circumstances. [294]

Ministry of Health.

April, 1943.

## APPENDIX A—MODEL LEAFLET

### TREATMENT FOR PULMONARY TUBERCULOSIS

#### *Allowances and Grants*

In order to help men and women who need treatment for pulmonary tuberculosis, but for whom treatment will mean an interruption of earnings or other income, the Government make special allowances. The object of the allowances is to enable necessary treatment to be undertaken without financial anxiety about the support of the family or the upkeep of the home.

These allowances will be paid by the Local Authority (County or County Borough Council) that is responsible for providing treatment for tuberculosis. They will be paid while the patient is undergoing treatment, provided that he follows a course of treatment advised by the Tuberculosis Officer of the Local Authority. This treatment may be in-patient treatment in a sanatorium or dispensary treatment while living at home, whichever the Tuberculosis Officer considers to be necessary on medical grounds.

There are three kinds of payments :—

(1) *Maintenance allowances* based on a standard scale and without any test of means.

(2) *Discretionary allowances*, on proof of need, towards meeting standing charges—such as high rent or rates, hire purchase instalments, insurance premiums and school fees—in cases where the patient would be unable to meet these liabilities.

(3) *Special Payments* to meet certain special circumstances.

Full details are given in this leaflet. The Tuberculosis Officer will give any explanation that is needed and will advise on how to claim these allowances.

#### *Maintenance Allowances*

The standard scale for these is as follows :—

Where the applicant (*i.e.* the person receiving treatment) is a householder, which for this purpose includes a person living in lodgings, rooms or a hostel :—

						<i>Per week</i>	
						<i>s.</i>	<i>d.</i>
(a)	For male applicant and wife, or female applicant with dependant husband (jointly)	..	..	..	..	39	0
(b)	For male or female applicant where rate (a) does not apply					27	0
(c)	For dependants (other than wife or husband)						
	Aged 16 or over	..	..	..	..	12	0
	Aged 14 and under 16	..	..	..	..	8	0
	Aged 10 and under 14	..	..	..	..	6	6
	Aged under 10	..	..	..	..	5	0

Where the applicant is a person living as a non-dependent member of a parent's or other relative's household, and is receiving treatment *at home*, the allowance will be 25s. 0d., with additional payments, if the person has dependants, as in (c) above.

The above scale rates will be *increased* by—

- (i) amount of net rent not exceeding 15s. a week (see Note 2 below);
- (ii) a winter allowance of 3s. 6d. a week for householders or persons responsible for providing their own fuel.

The scale rates will be *decreased* by—

- (i) any benefit payable under the National Health Insurance Act ;
- (ii) the amount of any disability pension or treatment allowance received from the Ministry of Pensions or other public funds wholly in respect of tuberculosis : or the excess over £1 a week of any similar payment from the Ministry of Pensions or other public funds in respect of any other disability ;
- (iii) the amount of any (a) payment received from employer, or (b) income from self-employment or occupation, in respect of the period of treatment ;
- (iv) 10s. a week where the applicant is being treated in an institution.

NOTES.—1. A “ maintenance allowance ” will not be payable in the case of a person *without dependants* undergoing treatment in an institution. (But see (3) under “ Special Payments ” below.)

2. In determining the amount of allowance for rent, where the household includes persons not dependent on the applicant account will be taken of such proportion of the total rent as represents the applicant's own share of liability.

3. The weekly proportion of payment of mortgage *interest* will be regarded as equivalent to payment of a rent.

#### *Discretionary Allowances*

Grants under this heading to supplement “ maintenance allowances ” at the standard rates described above may be applied for towards meeting liabilities defined below. These payments will be at the discretion of the Authority, when they are satisfied that the liabilities cannot be met without help.

1. Rent and Rates in excess of 15s. a week covered by “ maintenance allowance.”
2. Hire Purchase Instalments.
3. Premiums on Life Assurance Policies.
4. Expenses on Education of Children.

NOTES.—1. The amount (in total) of “ discretionary allowances ” will ordinarily be limited to 10s. a week. Any grant exceeding this will be subject to decision by the Ministry of Health after consideration of the circumstances of the particular case.

2. Account cannot be taken of additional obligations incurred by the applicant after beginning treatment, except in the case of educational charges approved by the Tuberculosis Authority as being reasonably necessary for the continued education of children.

#### *Special Payments*

Additional grants under this heading may be made at the discretion of the Tuberculosis Authority (when they are satisfied that the liabilities cannot be met without help) for the following purposes :—

1. Reasonable travelling expenses of near relatives (not more than two at any one time) visiting the applicant in an institution to which the cheapest return fare exceeds 2s. 6d., where the Medical Superintendent certifies that a special visit should be paid, or otherwise at such intervals as the Tuberculosis Officer considers reasonable.

2. Where the person undergoing treatment is a housewife and increased expenditure is involved in obtaining outside domestic help in her absence. A special payment for this purpose will not exceed 10s. a week.

3. Where a person *without dependants* is undergoing treatment in an institution, a special payment may be made of not more than 5s. a week for pocket money, and an allowance in respect of any reasonably continuing standing charges for rent, rates, insurance or hire purchase payments, provided that the applicant is unable to meet the charges from National Health Insurance benefit or other resources.

GENERAL NOTE.—Persons under treatment, or about to undertake treatment, for pulmonary tuberculosis will be given any necessary help in claiming appropriate allowances by the Tuberculosis Officer (or other representative of the Tuberculosis Authority). The necessary forms of application will be provided on which all the particulars asked for should be given as fully and carefully as possible. [295]

## APPENDIX B

## MODEL FORMS OF APPLICATION FOR ALLOWANCES

I. *Form of Application for Maintenance Allowances.*

This should provide for the following items :—

1. Case Number (for reference).
2. Full Name and Address of Applicant.  
Age of Applicant (last birthday).

3. Description (to be indicated by putting a cross in the appropriate space in each of the following columns).

Single	
Married	
Widower or Widow	

LIVING AT HOME (i.e. in own or parents' home)	
LIVING WITH RELATIVES (other than parent)	
LODGER LIVING WITH HOUSEHOLD (not related)	
LIVING IN ROOMS OR A HOSTEL	

4. Questions as follows (to be answered "Yes" or "No", where applicable) :—

- (a) If living at home, are you the householder ?
- (b) If you are a married woman, does your husband depend on you for support ?
- (c) If not a householder, are you responsible for providing your own fuel ?

5. Particulars of all persons living in household—in tabular form under following headings :—

- (i) Name : (ii) Age : (iii) What relation is the person named to the applicant ? (iv) Is the person dependent on applicant for support ? (v) Is the person in receipt of earnings or other income ("yes" or "no") ?

6. Particulars of employment, as follows :—

- (a) Normal Occupation.
- (b) Name and Address of present employer (if any).
- (c) Normal weekly earnings (excluding overtime).
- (d) Is applicant receiving, or expecting to receive, any payment from employer while away from work to undergo treatment ? If so, how much per week ?

7. If applicant is an insured person under the National Health Insurance Act :—

- (i) Weekly amount of Health Insurance Benefit to which applicant is entitled.
- (ii) Name of Approved Society.
- (iii) Address of Society.
- (iv) Membership Number.

8. Particulars of disability pension or other similar payment from public funds, as follows :—

(a) Is applicant receiving a Disability Pension or Treatment Allowance from the Ministry of Pensions ? If so, how much per week ?

(b) Is this Disability Pension or Treatment Allowance in respect of Pulmonary Tuberculosis ?

(c) Is applicant receiving any disablement pension or similar payment from public funds (other than from Ministry of Pensions) ? If so, how much per week ?

(d) Is the payment under (c) in respect of Pulmonary Tuberculosis ?

9. If applicant is a householder paying rent :—

(i) Amount of rent per week. (If rates are included with rent, total to be given.)

(ii) Amount of Rates per week (if not included with rent).

(iii) If any part of house is sub-let, amount of weekly rent received from tenant(s).

10. If applicant is a householder *not* paying rent :—

(i) Weekly proportion of annual amount of Mortgage Interest (if any).

[Note : This applies to mortgage *interest* only, not repayments of capital].

(ii) Amount of Rates per week.

(iii) Weekly proportion of annual expenditure on (a) repairs, (b) insurance, (c) war damage premiums.

(iv) If any part of house is let, amount of weekly rent received from tenant(s).

11. Declaration (on following model) :—

I hereby declare that the information given above is true to the best of my knowledge and belief. I undertake to notify the Tuberculosis Authority at once of any change of circumstances relating to any of the particulars given.

I hereby name.....of .....  
as the person to whom I authorise allowances to be paid for the maintenance of my dependants.

Signature.....Date.....

## II. Form of Application for Discretionary Allowances and Special Payments.

This should provide for the following items :—

1. Case Number (for reference).

2. Full Name and Address of Applicant.

3. Declaration (on following model) :—

I hereby apply for grants additional to standard maintenance allowances towards meeting the expenses described below which I shall not be able to meet otherwise. The information given below is true to the best of my knowledge and belief. I undertake to notify the Authority at once of any change of circumstances affecting any of the grounds on which a discretionary allowance or special payment is granted.

I hereby name.....of .....  
as the person to whom I authorise payments granted on this application to be paid.

Signature.....Date.....

#### 4. *Part I of claim*—DISCRETIONARY ALLOWANCES.

##### A. *Rent and Rates.*

If you are liable for payment of rent and rates (or mortgage interest and rates) in excess of fifteen shillings a week, do you claim an additional allowance on this account ?

##### B. *Hire Purchase Agreements.*

If you claim an additional allowance in order to keep up instalments on hire-purchase agreements, give the following particulars.

[Tabular provision for particulars to be given under the headings :—

- (a) Description of goods bought on hire-purchase terms.
- (b) Person or Firm with whom the agreement has been made.
- (c) Date of Agreement.
- (d) Amount of payment per week.
- (e) Date by which purchase is due to be completed.]

##### C. *Life Assurance.*

If you claim an additional allowance in order to keep up payment of premiums on a Life Assurance Policy (or policies), give the following particulars.

[Tabular provision for particulars to be given under the headings :—

- (a) Name of Assurance Company.
- (b) Name of person covered.
- (c) Capital sum assured.
- (d) Amount of premium per week.]

##### D. *Education of Children.*

If you claim an additional allowance towards meeting the cost of educating children, give the following particulars.

[Tabular provision for particulars to be given under the headings :—

- (a) Name of Child.
- (b) Age.
- (c) Particulars of school attended.
- (d) Weekly amount of school fees.
- (e) Weekly amount of other expenses.]

#### 5. *Part II of claim*—SPECIAL PAYMENTS.

##### E. *Domestic Help.*

Do you claim a special grant on the ground that you are a woman responsible for housekeeping and that while you are under treatment it will be necessary to have paid help in the home ?

#### 6. *Part III of claim*—STATEMENT OF RESOURCES.

(1) Are you in receipt of any income, allowances or assistance (excluding your earnings if you are still in employment) ? If so, give full particulars.

(2) Are you entitled to any benefits during sickness from any club, friendly society, or trade union ? If so, give full particulars.

(3) Weekly earnings or other incomes of each member of your household (excluding yourself).

[Tabular provision for name of each member of household and amount of weekly earnings or other income in each case. (If "none" this should be stated.)] [296]

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Circular 2794A

*County Councils.**County Borough Councils.**Joint Tuberculosis Boards.**Common Council of the City of London.**Metropolitan Borough Councils (England).*

MINISTRY OF HEALTH,

WHITEHALL,

LONDON, S.W.1.

9th June, 1943.

SIR,

**PULMONARY TUBERCULOSIS—MAINTENANCE  
ALLOWANCES**

With reference to paragraph 48 of Memo. 266T enclosed with Circular 2794, dated 22nd April, 1943, I am directed by the Minister of Health to state that it will be of assistance to Approved Societies under the National Health Insurance Acts if Tuberculosis Authorities, when requesting such Societies for particulars of National Health Insurance benefit payable to insured persons undergoing treatment for pulmonary tuberculosis, will furnish the Society concerned with particulars of persons (if any) whom the Authority is accepting as dependants of the patient in determining the amount of maintenance allowance. This information is material to Approved Societies in their administration of benefits under the National Health Insurance Acts, and the Minister is confident that Tuberculosis Authorities will be prepared to co-operate in this way so that insured persons suffering from tuberculosis will not be troubled with enquiries as to their dependants from two separate sources.

The Minister feels that it will be of assistance to both Tuberculosis Authorities and Approved Societies if a standard form is used for the purposes in question, and a suggested model form is printed overleaf. It will be necessary for the form to be sent to Approved Societies *in duplicate*, as the Society will require to retain one copy for certain audit purposes.

Approved Societies have been asked to deal with these requests from Tuberculosis Authorities with as little delay as possible: and they have also been informed that if at any time after information regarding rate of benefit has been given to a Tuberculosis Authority the rate of benefit is due to be altered, notice of this impending change should be sent to the Tuberculosis Authority if possible a week or two in advance of the date of alteration.

An additional copy of this Circular is enclosed for the Finance Officer.  
[297]

I am, Sir, etc.

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The Clerk of the Council or Joint Board.

The Town Clerk.

Request for N.H.I. Benefit Particulars of Insured Person under Treatment for Tuberculosis

Name of Insured Person :

.....  
Address : .....  
.....

Name of }  
Approved  
Society }

Name and No. }  
of Branch  
(if any) }

Membership No. ....

\* Marital Status : SINGLE/MARRIED/WIDOW(ER)

\* Type of Treatment : INSTITUTIONAL/DOMICILIARY

\* Strike out words not appropriate.

Signature..... Date.....

To be filled up  
by Appd. Society

Current Weekly Rate of N.H.I. }  
Benefit to which the above }  
member is entitled } .....s.....d.

Signature..... Date.....

Name and Address  
of Tuberculosis  
Authority.

DEPENDANTS

* HUSBAND OF WIFE	* CHILD(REN) under 16	* NONE
* OTHER RELATIVE.		
Name .....		
Relationship .....		
Address (if other } than that of the } Insured Person)		



## Circular 2897.

*Borough Councils.*  
*The Common Council of the*  
*City of London.*  
*Metropolitan Borough Councils.*  
*Urban District Councils.*  
*Rural District Councils.*

MINISTRY OF HEALTH,  
WHITEHALL,  
LONDON, S.W.1.

9th December, 1943.

SIR,

## INFLUENZA

1. I am directed by the Minister of Health to acquaint the Local Authority with action which he has taken with a view to giving what assistance is possible in difficulties arising out of the present epidemic of influenza.

[298]

2. The problems which the Minister has in mind are primarily those arising out of the shortage under war conditions of medical assistance and help in the home and difficulties in regard to arrangements for the supply of meals in households where there is sickness. [299]

3. Arrangements have been made to defer temporarily the call-up of doctors to the Services. The issue of recruitment notices, medical examinations and interviews may proceed, but the actual call to duty will be deferred. Arrangements have also been made under which in districts where the need is urgent the Military Medical Authorities will give such assistance in civilian work as the requirements of their duties permit. Medical Officers of Health and Secretaries of Local Medical War Committees are being advised on the method of applying for such help when necessary. [300]

4. The Authority should consider in what manner temporary assistance in a local emergency can be given by the diversion or adaptation of existing services, *e.g.* first aid post or rest centre personnel, health visitors, school-nurses. The Authorities responsible for these services have been requested to co-operate to the best of their ability and, if it is thought that assistance can usefully be given through some service not under the control of the Local Authority, application should be made to the responsible Authority. [301]

5. The Ministry have ascertained that the Ministry of Food and the Board of Education will be prepared to permit arrangements on a payment basis for the provision of meals from British Restaurants and school canteens. The Authority responsible for the restaurant or canteen should take such steps as they think desirable for satisfying themselves as to the *bona fides* of the person applying for the meals, and secure payment to cover the full cost, but otherwise it would be well to make the arrangements as free from restrictions as possible for the next few weeks within the resources of the meals centre. The question of transport is no doubt a problem. Civil Defence ambulances and vehicles may be used for such transport where necessary. It may be possible to supply meals direct through any organisation arranging for the transport of meals to agricultural workers. Local voluntary organisations and individuals of good will may also be able to assist. Where these arrangements are insufficient it may be that meals will have to be provided by emergency methods, *e.g.* from rest centres, mobile canteens, but before any such action is taken the Senior Regional Officer should first be consulted so that he may discuss the matter with the Divisional Food Officer. [302]

6. As to help in the home, the Maternity and Child Welfare Authorities have powers to provide some helps, and attention is directed to the recent Circular 2729 issued in regard to this service. It is suggested that the

responsible Authorities should utilise these powers as widely as their statutory authority permits. The Chief Medical Officer of the Ministry has already written to the Medical Officer of Health acquainting him of the offer made by the British Red Cross Society, the St. John Ambulance Brigade and the Women's Voluntary Services to help within the scope of their services and within the resources of their members. The general basis is that they will operate, so far as they can do so, on a request from a medical practitioner, a district nurse or a hospital. The Local Authority should consider whether there are any other local voluntary organisations able and willing to give help of a similar character. The organisation for mutual help after air raids may be on a sufficiently definite basis for voluntary offers to be obtained for assistance with this epidemic. In addition, nursing help within the home, possibly by way of assistance to the district nurse, or at hospitals, may be provided by the whole-time staff and volunteers in the first aid post and rest centre service. The rest centre service might also provide volunteers for other help within the home. It is suggested that the procedure in regard to such personnel should be by way of invitation to volunteer; if the responsible Authority organise the arrangements the Personal Injuries Scheme would apply. Difficulties of shopping may also be a major problem with reduced deliveries and the need to present ration books for rationed goods. Help within the home provided by the various agencies mentioned might in many cases cover this also, but additional help might be forthcoming from the local youth services. [303]

7. These suggestions are not intended to be exclusive. The Authority knowing the local organisations and resources may be able to make additional arrangements. What is important is that as much assistance as possible should be given to minimise the difficulties created by the epidemic which, though not of a virulent type, is having serious repercussions on war production. Assistance by the various methods suggested will help both the individual himself and reduce the setback to production to the minimum. [304]

8. Arrangements made in a district should be made known to doctors and to nurses and, so far as applicable, to the general public. The Local Authority should take appropriate steps to this end. [305]

I am, Sir, etc.

\* \* \* \* \*

The Town Clerk,

The Clerk of the Council.

**Circular 2898**

MINISTRY OF HEALTH,  
WHITEHALL,  
LONDON, S.W.1.

*To County Councils.*

*9th December, 1943.*

SIR,

### INFLUENZA

I am directed by the Minister of Health to enclose a copy of a Circular addressed to Borough and District Councils in which suggestions are made for assisting households suffering from this disease. As you will see, some of these suggestions involve services administered by the County Council, and it will no doubt be agreed that there should be the fullest collaboration

between the County and District Medical Officers of Health so that action may be taken where the need arises.

The arrangements fall into two main parts. First, domestic and nursing help within the home, and secondly, the provision of meals from British Restaurants, school canteens and possibly Rest Centres. On the first, the necessary instructions in regard to Services administered by the County Council will no doubt be given on the advice of the County Medical Officer of Health. On the second, the extent of the provision will depend on the facilities at the restaurant or canteen. The Ministry of Food and the Board of Education have been consulted and are fully in agreement that every possible help should be given. The provision of meals will be on a payment basis and, within the resources of the kitchens, should be met with the minimum of restriction. Members of the household may be able to fetch the meals or it may be necessary to arrange deliveries. The voluntary bodies mentioned in the enclosed Circular may be able to help in this, and additional help may be forthcoming from the youth services. Where these are administered by the County Council it is hoped that everything possible will be done to secure volunteers. Use may be made of Civil Defence staffs, vehicles and transport where necessary. In particular, where meals for agricultural workers are supplied away from the feeding centre, provision could readily be made to individual households.

A separate letter is being addressed by the Minister's Chief Medical Officer to the County Medical Officer of Health explaining the method by which, in urgent need, the assistance of medical men may be sought from the Services.

The Minister is sure that the Council will do everything possible to assist in these or other ways as may occur to them, and so secure that loss to war production is kept to the minimum. [306]

I am, Sir, etc.

\* \* \* \* \*

The Clerk of the Council.

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## DISEASES OF ANIMALS

*See ANIMALS.*

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## DRAINAGE BOARDS

*See LAND DRAINAGE.*

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# EDUCATION

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## STATUTES

### THE DIOCESAN EDUCATION COMMITTEES MEASURE, 1943

(6 & 7 Geo. 6, No. 3)

#### ARRANGEMENT OF SECTIONS

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*A Measure passed by the National Assembly of the Church of England to provide for the appointment of diocesan education committees and to define their powers and duties ; to provide for the consultation and co-operation of such committees with the trustees or owners and managers of church schools in regard to such schools ; to make provision for the application of moneys received for war damage to church schools ; and for purposes connected therewith.*

[307]

[11th November 1943.]

**1. Appointment of Diocesan Education Committees.**—Within twelve months after the passing of this Measure there shall be set up in every diocese within the provinces of Canterbury and York, except the diocese of Sodor and Man, a body of persons responsible to the diocesan conference and known as the Diocesan Education Committee, constituted in accordance with the schedule to this Measure :

Provided that in any diocese in which there exists or is set up within twelve months of the passing of this Measure a body of persons whether incorporated or not, which acts as the education authority for the Church in the diocese and is charged with the duty of supervising church schools and is recognised by the diocesan conference, the Board of Education, upon request made by resolution of the diocesan conference and with the consent of the bishop of that diocese, may by order direct that such body of persons shall be deemed to be and shall have all such rights powers duties and obligations as if it were a committee duly set up and constituted in accordance with this section and all the provisions hereinafter contained in this Measure shall apply accordingly. [308]

**2. Duties of committees.**—(1) The Diocesan Education Committee (hereinafter in this Measure called “the Committee”) in each diocese shall have the duty and right from time to time :—

- (i) to take such steps as may appear to the Committee to be conducive to the promotion of religious education according to the faith

and practice of the Church of England and to watch the interests of church schools ;

- (ii) to take such action as may appear desirable to provide new schools.
- (iii) to promote and to co-operate with other religious bodies and with local education authorities in promoting religious education within the diocese.
- (iv) to give advice as and when the Committee thinks fit to trustees or owners and managers of church schools and others concerned as to any matters affecting church schools within the diocese.
- (v) to make plans calculated in the opinion of the Committee to further the development and organisation of religious education in the diocese and in particular of instruction in religious knowledge according to the faith and practice of the Church of England after consultation with such trustees or owners and managers of church schools within the diocese and with such other persons as in the opinion of the Committee are interested or as may be in any way affected thereby. [309]

(2) The trustees or owners and managers of every church school in a diocese shall be bound to consult the Committee and to have regard to its representations in any negotiations for and before making any agreement or arrangement with the Board of Education, the Charity Commissioners, or the local education authority for or with respect to the restoration, rearrangement, continuance, discontinuance, closing, sale or lease of, or other dealing with such church school, or for or with respect to the amalgamation thereof with any other school. [310]

(3) In this section references to church schools shall (unless repugnant to the context) be deemed to include the sites, properties and endowments thereof. [311]

“ Church school ” and “ local education authority ” are defined by s. 4, *post*.

### 3. Application of payments for war damage in respect of church schools.—

(1) The diocesan board of finance of a diocese shall (subject to any conditions determined by the War Damage Commissioners) hold or apply any moneys paid to them pursuant of section six of the Diocesan Reorganisation Committees Measure, 1941, in respect of war damage to a church school, and any investments representing such moneys for such purposes as the Diocesan Education Committee after consultation with the Diocesan Reorganisation Committee and the trustees or owners and managers of such schools and with the approval of the Board of Education shall direct, and in default of and subject to any such direction received by the diocesan board of finance within three years after payment of such moneys to them, shall transfer such moneys and investments to the trustees or owners of the church school in respect of which such moneys shall have been paid. [312]

(2) Section six of the Diocesan Reorganisation Committees Measure, 1941, shall take effect subject to the provisions contained in subsection (i) of this section. [313]

For s. 6 of the Diocesan Reorganisation Committees Measures, 1941, see 34 Statutes 86.  
“ Church school ” is defined by s. 4, *post*.

**4. Interpretation.**—In this Measure the following expressions have the following meanings respectively, that is to say :—

“ church school ” means an elementary school as defined by subsection (1) of section one hundred and seventy of the Education Act, 1921, or as may be modified in definition by any subsequent Act, including the land and buildings thereof, which either under a statute or

statutory scheme or any trust or by usage or repute is for the time being held on trust for purposes of elementary education together with instruction (either as part thereof or in addition thereto) in religious knowledge according to the faith and practice of the Church of England.

“local education authority” has the same meaning in this Measure as in the Education Act, 1921, or as may be modified by any subsequent Act. [314]

“Elementary school” is defined by s. 170 (1) of the Education Act, 1921 (7 Statutes 212) and “local education authority” by s. 3 thereof (*ibid.* 131).

**5. Short title.**—This Measure may be cited as the Diocesan Education Committees Measure, 1943. [315]

## SCHEDULE

### Section 1

#### CONSTITUTION OF DIOCESAN EDUCATION COMMITTEES

The Diocesan Education Committee of each diocese shall be constituted as follows, namely :—

1. The bishop, suffragan bishops, assistant bishops, and archdeacons shall be ex-officio members.
2. The diocesan conference shall elect not more than twenty and not fewer than twelve members of whom four members at least shall be ministers holding separate cure of souls in a parish or conventional district within the diocese ; six at least shall be lay persons of whom two at least shall be women.

Elections shall be held in such manner as the diocesan conference may direct. The first elected members shall hold office until the expiration of the conference by which they are elected or until their successors shall be elected and thereafter the elected members shall hold office for three years or until their successors shall be elected, whichever in each case shall be the later.

3. The Committee shall co-opt not more than eight additional members being persons who are for the time being trustees, foundation managers or otherwise interested in church schools in the diocese of whom not less than half shall be foundation managers of such schools.
4. The bishop shall have power to nominate not more than four additional members of whom two at least shall be teachers in church schools.
5. The Chairman of the Committee shall be the bishop or, if he shall decide not to act as chairman, some other person appointed by the Committee.
6. The Committee shall appoint its own secretary.
7. The Committee shall have power to fill any casual vacancies and may act notwithstanding any vacancy in its membership.
8. Eight members of the Committee shall form a quorum.
9. The Committee may appoint sub-committees including or not including persons not members of the Committee.
10. Subject to the foregoing provisions, and to any directions given by the diocesan conference, the Committee shall have power to regulate its own procedure.
11. Subject to any limit or restriction imposed by the diocesan conference the expenses of the Committee shall unless otherwise provided for be defrayed by the diocesan board of finance out of any moneys applicable to the expenses of that board. [316]

## ORDERS, CIRCULARS AND MEMORANDA

*Board of Education.*

*Supplement (1943) to Grant  
Regulations No. 7 (1941).*

### THE TRAINING OF TEACHERS SUPPLEMENTARY REGULATIONS, 1943

*May 3, 1943*

1. The Training Colleges to which these Regulations apply are those non-provided Training Colleges (other than any Training Department of a University or University College) which are recognised by the Board of Education under the Regulations for the Training of Teachers, 1941, as amended by Amending Regulations No. 1, 1942, for the whole or part of the academic year beginning on the 1st August, 1942. [317]

2. Where the Board of Education are satisfied that, in consequence of a decline in the number of students or of expenditure involved in transfer from one place to another, or of other circumstances arising out of the present war, a Training College to which these Regulations apply is unable to meet reasonable expenses of maintenance for the said academic year, the Board may pay to the Governing Body such additional grant (if any) as they think necessary for safeguarding the financial position of the College. [318]

3. Where, for reasons of economy or otherwise in consequence of war-time conditions, a Training College to which these Regulations apply is closed, and its recognition under the Regulations for the Training of Teachers, 1941, as amended as aforesaid ceases from a date not later than the end of the said academic year, the Board may pay such additional grant (if any) as they think necessary to enable the College to meet liabilities outstanding at that date. [319]

4. If any question arises as to the interpretation of these Regulations, or as to whether any of the requirements thereof are fulfilled, or as to the amount of any grant payable thereunder, the decision of the Board shall be final. [320]

5. These Regulations may be cited as the Training of Teachers Supplementary Regulations, 1943. [321]

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*Board of Education.*

*Grant Regulations No. 10.*

*(Provisional Amendment, 1943.)*

### THE SECONDARY SCHOOLS PROVISIONAL AMENDING REGULATIONS, 1943

*P. R. & O., 1943*

*May 7, 1943*

The Board of Education hereby certify under Section 2 of the Rules Publication Act, 1893, that on account of urgency the following Regulations should come into immediate operation, and accordingly they hereby make the following Regulations to come into operation forthwith as Provisional Regulations :—

1. The existing Regulations hereby amended are the Regulations for Secondary Schools, 1935, as amended by the Secondary Schools Amending Regulations No. 1, 1936, and No. 2, 1938. [322]



2. Where the Board of Education are satisfied that, in consequence of a decline in the number of its pupils, or of an evacuation plan, or of other circumstances arising out of the present War, a School receiving direct grant is unable to meet reasonable expenses of maintenance, the Board may pay to the School for the present school year, beginning on the 1st August, 1942, such additional grant (if any) as they think necessary for safeguarding the financial position of the School. Such additional grant will not, save in exceptional circumstances, exceed £900. [323]

3. Where the Board of Education are satisfied that adequate and suitable arrangements are made for providing on the premises of a School receiving direct grant mid-day meals, at a charge approximately equal to the cost of the food furnished therein, for those day-pupils of the School whose parents wish them to partake of such meals, the Board may pay to the School for the present school year a special grant at the rate of four pence for every meal so provided. [324]

4. If any question arises as to the interpretation of these Regulations, or as to whether any of the requirements thereof are fulfilled, or as to the amount of any grant payable thereunder, the decision of the Board shall be final. [325]

5. These Regulations may be cited as the Secondary Schools Provisional Amending Regulations, 1943. [326]

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*Board of Education.*  
*Grant Regulations No 7 (1941).*  
*(Amendment No. 2, 1943.)*

## THE TRAINING OF TEACHERS AMENDING REGULATIONS NO. 2, 1943

*S. R. & O., 1943, No. 1192*

*August 11, 1943*

1. The existing Regulations hereby amended are the Regulations for the Training of Teachers, 1941, as amended by the Training of Teachers Amending Regulations No. 1, 1942; and these Regulations supersede the Training of Teachers Provisional Amending Regulations, 1942, which were made on the 6th October, 1942, to come into operation forthwith as Provisional Regulations. [327]

2. The following Article is hereby substituted for Article 15 of the existing Regulations :—

“15.—(a) A person who desires to enter a Training College as a recognised student or as a private student seeking a Code qualification must—

- (i) satisfy the Board that the seventeenth anniversary of his birthday falls on or before such date (hereinafter called “the prescribed date”) in the calendar year in which the course to which he seeks admission begins as is hereinafter prescribed for that course;
- (ii) have passed before admission an examination approved as a First Examination for Secondary School purposes or some other approved examination of at least equivalent standard; and
- (iii) satisfy the College authorities as to his character, probable suitability for the teaching profession, and health and physical capacity for teaching;

and, in the case of a person entering a College as a recognised student, must also—

- (iv) be a British subject ordinarily resident in England or Wales unless an exception to this rule is approved ; and
- (v) sign a declaration that he intends to complete the course of training for which he is admitted and thereafter to adopt and follow the profession of teacher in an approved School, and that in entering the College he takes advantage of the public funds by which it is aided in order to qualify himself for that profession and for no other purpose.

(b) The prescribed date shall be—

- (i) the 1st October for a male student, or the 1st April for a female student, in the case of an approved two year course ;
- (ii) the 1st July for every student in the case of an approved three-year course in a Training College for Domestic Subjects ; and
- (iii) the 1st October for every student in the case of any other approved course provided that if any such course begins in January the prescribed date shall be the 1st January for every student.

(c) Promises of admission in any academic year must not be given more than six months before the beginning of that year.” [328]

3. Sub-paragraph (ii) of paragraph (b) of Article 21 of the existing Regulations shall have effect with the addition of the following proviso :—

“ Provided that where a student incurs additional costs of maintenance owing to the extension of the period of his attendance in any academic year, whether by the addition of a further term or by the lengthening of the normal terms, the Board may, if they think fit, for that year pay an additional maintenance grant not exceeding one-third of the maintenance grant assessed as aforesaid.” [329]

4. If any question arises as to the interpretation of these Regulations, or as to whether any of the requirements thereof are fulfilled, or as to the amount of any grant payable thereunder, the decision of the Board shall be final. [330]

5. These Regulations may be cited as the Training of Teachers Amending Regulations No. 2, 1943. [331]—[336]

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## CASES

*Negligence—Dangerous article—Sale of bow and arrow to boy of 10 years—Injury to schoolchild.*

The Erith Borough Council was the education authority for a school which the infant plaintiff, aged 6 years, attended. During the midday break the plaintiff and some 50 other children were playing in the playground which formed part of the school premises. There was an unlocked gate which led to the street and, if given permission, children could leave the playground by this gate to go home for lunch or to buy sweets or toys. From time to time one of the teachers would go into the playground to see that all was well ; but there was no continuous supervision. On the day in question one of the pupils, a boy of 10, left the playground and went across to a nearby shop

and purchased some blunted pieces of bamboo made up in the form of a bow and arrow. Returning to the playground and unseen by the teachers, he discharged the arrow in close proximity to the infant plaintiff, the arrow struck the plaintiff's spectacles splintering the glass and it was necessary to remove one eye. The infant plaintiff suing by her father as next friend brought an action for damages against (i) the Erith Borough Council on the ground that they were negligent by their servants in failing to maintain adequate supervision over the pupils in the playground; and (ii) the owner of the shop on the ground that he had been negligent in selling to an infant of apparent age articles which he knew or ought reasonably to have known would be dangerous in such hands, and that he knew or ought to have known that the boy was a pupil of the school and that he allowed him to take the bow and arrow into the playground without warning him of the danger of playing with the articles in the presence of other children of tender years:—

*Held*: (i) taking into consideration all the circumstances, it was not incumbent upon the council to have a teacher continuously present in the yard throughout the break, and the supervision had been adequate.

(ii) the bow and arrow was not in itself a dangerous thing to put into the hands of the particular purchaser, therefore, there was no duty of care resting on the seller, either towards the boy or any other person.—*RICKETTS v. ERITH BOROUGH COUNCIL*, [1943] 2 All E. R. 629; 169 L. T. 396; 108 J. P. 22. [337]

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## EDUCATION AUTHORITY

*See* EDUCATION.

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## EDUCATION COMMITTEE, DIOCESAN

*See* EDUCATION

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## EDUCATION FINANCE

*See* EDUCATION

## ELECTIONS

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## STATUTES

### THE PARLIAMENT (ELECTIONS AND MEETING) ACT, 1943

(6 & 7 Geo. 6, c. 48)

#### PRELIMINARY NOTE

Part I of the Parliament (Elections and Meeting) Act, 1943, introduces temporarily a new system for the registration of electors and new facilities for voting at parliamentary elections. Under the Local Elections and Register of Electors (Temporary Provisions) Act, 1939, no register of electors has been prepared under the existing system since that published in November, 1939. The present register is, therefore, considerably out of date. But even if staff could be found to conduct the necessary canvass, the existing system does not provide adequately for the continuous shifting of population during war-time and in the post-war period. The time from the qualifying date to the publication of the register is  $4\frac{1}{2}$  months, and the register remains in force for 12 months ; it may, therefore, be  $16\frac{1}{2}$  months out of date.

The new provisions, which carry out the recommendations of a Departmental Committee, introduce a system of continuous registration based on the National Register. Part I is only to remain in force until shortly after the expiry of the National Registration Act, 1939 (see s. 25 (2)) ; but it is regarded in many quarters as experimental, and it is possible that the system of continuous registration will be continued, even when the register can no longer be based on the National Register.

A "civilian residence register" is to be compiled under s. 5, the necessary information being passed by national registration officers through appropriate machinery to electoral registration officers. The qualification is two months' residence in a constituency. On removal to another address in the same constituency, a person is immediately re-registered. On removal to a different constituency a person remains qualified to vote in the old constituency until he has acquired the two months' qualification in the new constituency.

A first "electors list" is now in preparation from the National Register, and when it is ready a day will be appointed as from which the new system will apply to elections (s. 1 (1), (3)). The list will be constantly under revision under s. 5. When an election (whether a general or by-election) is initiated (see s. 2 (1)), the register is "frozen" as from the end of the previous month (see s. 1 (4)) and the work of preparing a register for that election is commenced. First an electors' list is published, and after claims and objections have been disposed of (see s. 12 (2), (4)) the register is published and brought into force on the thirty-sixth day after the initiation of the election (s. 1 (5)). That time may be extended in the case of remote constituencies (s. 4).

When printing facilities are again available this procedure will be slightly varied in that the electors' lists will be published throughout the country and kept up to

date by supplementary lists (s. 12 (3)), but the register will still be published for each election. At this stage facilities for appeals against the registration officer's decisions will exist (s. 12 (4)).

The qualification to be placed on the "business premises register" remains the same, but persons wishing to be registered must apply for registration (s. 6). During the first stage the list of persons qualified to be on the register will be prepared *ad hoc* for each election (s. 12 (2)); but when printing facilities become available the list will be prepared and published annually (s. 12 (3)).

A "service register" is also provided for, containing the names of members of the forces and seamen (s. 8). These may apply to be registered either where they are residing or where they would be residing but for their service. During the first stage no objections can be made regarding the service register, but in the second stage the provisions as to publication of lists, and as to objections and appeals, will be the same as for the civilian residence register (s. 12 (3), (4)). A person who ceased to be on the service register is forthwith placed on the civilian residence register at the address at which he first resides, without waiting for the two months' qualification (s. 5 (1) (a) (ii)).

Persons on the service register may vote either by post or by proxy or in person (s. 9).

Facilities are also given for such persons to vote by proxy at university elections (s. 18).

S. 10 provides for treatment of war workers resident abroad in a manner similar to seamen.

The period which must elapse between the initiation of an election and the publication of the register would result in the case of a general election in a long period when there was no parliament. This difficulty is met by s. 3, which enables a Royal Proclamation to dissolve parliament at a date later than the initiation of the election (but not later than the publication of the registers). In that event by-elections in progress are, however, immediately suspended.

S. 19 contains provisions for the next preparation of the register under the old system on the expiry of Part I under s. 25 (2), and for the continuance in force of the existing jurors' bodies. These provisions substantially replace portions of the Local Elections and Register of Electors (Temporary Provisions) Act, 1939, which are repealed by the Local Elections and Register of Electors (Temporary Provisions) Act, 1943, *post*.

Part II of the present Act, which is permanent, deals with the direction and conveyance of parliamentary writs. The previous law was obscure and often conflicting, and an opportunity has been taken to consolidate it. No changes of substance are made. The method of conveying writs is to be regulated by Order in Council.

Part III, which is also permanent, enables parliament to be summoned more quickly (at one day's notice) during a prorogation. This applies to all prorogations whether before a dissolution or at any other time. [338]

## ARRANGEMENT OF SECTIONS

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*An Act to make temporary provision as respects parliamentary elections and the registration of parliamentary electors and, in connection therewith, as respects the dissolution of parliament as from a future date and other matters; to consolidate and amend the law as to the officers to whom writs for parliamentary elections are to be directed, and the persons to whom and the manner in which they are to be conveyed; and to shorten the time required for summoning parliament when prorogued.* [339] [11th November, 1943.]

## PART I

### PARLIAMENTARY ELECTORS (WAR-TIME REGISTRATION)

#### *Preliminary*

**1. Special register for war-time parliamentary elections.**—(1) The parliamentary register of electors to be in force for the purposes of a war election in any constituency shall be a register specially prepared for that election under this Part of this Act. [340]

(2) For the purposes of this Part of this Act, the expression “war election” means a parliamentary election initiated on or after the appointed day and before the expiration of the National Registration Act, 1939, not being a university election. [341]

(3) The said register shall consist of three parts, to be known respectively as the civilian residence register, the business premises register and the service register, but no person shall be entitled to be registered in more than one part of the register for the same constituency. [342]

(4) Subject to the provisions hereafter contained in this Part of this Act as respects the business premises register, the date by reference to which a person's qualification for registration in any part of the said register for any election is to be ascertained shall be the last day of the month next before that in which the election is initiated, and that day is hereafter in this Part of this Act referred to as “the qualifying date”. [343]

(5) Subject to any order made by the Secretary of State under this Part of this Act, the said register shall be published and come into force for an election on the thirty-sixth day after the initiation of the election:

Provided that if the said thirty-sixth day falls on a Sunday, Christmas Day, Good Friday or a bank holiday, there shall be substituted the next following day which is not a Sunday, Christmas Day, Good Friday or a bank holiday. [344]

“The appointed day” is to be appointed by order of the Secretary of State under s. 22, *post*. No day had been appointed at the time of going to press; it will be fixed when the new register has been prepared.

As to the expiration of the National Registration Act, 1939, see s. 12 (4) thereof (32 Statutes 1112).

“University election” is defined by s. 41 (4) of the Representation of the People Act, 1918 (7 Statutes 570), applied by s. 22, *post*.

As to the three registers into which the new register is to be divided, see ss. 5 (civilian residence), 6 (business premises) and 8 (service).

As to the initiation of an election, see s. 2, *infra*. The special provisions as to the qualifying date in relation to the business premises register are contained in s. 6, *post*; see also s. 12 (3) (b) (ii), *post*.

Machinery which is normally set in motion on the date of the Royal Proclamation or the receipt of the writ is now set in motion from the date of publication of the register (see s. 2 and notes thereto, *infra*). “Bank holiday” is defined by s. 22, *post*.

#### **2. Initiation of election and extension of time for holding thereof.**—

(1) For the purposes of this Part of this Act, the date on which an election shall be taken to be initiated shall be—

(a) in the case of a general election, the date of His Majesty's proclamation summoning the new parliament; and



(b) in the case of a by-election, the date on which the writ is received ; and references to the initiation of an election shall be construed accordingly. [345]

(2) In their application to a war election the following enactments, namely—

- (a) rule 2A of the First Schedule to the Ballot Act, 1872, as amended by Part I of the Second Schedule to the principal Act (which provides that at a general election the day fixed for the election shall be the eighth day after the date of His Majesty's proclamation summoning the new parliament) ;
- (b) subsection (3) of section twenty-one of the principal Act (which provides that the time appointed for the meeting of parliament may be any time not less than twenty clear days after the said proclamation) ;
- (c) rule 2 of the First Schedule to the Ballot Act, 1872 (which, as amended by Part II of this Act, provides that, in the case of a by-election for a county, the day fixed for the election shall not be later than the ninth day after the day on which the writ is received) ;
- (d) section three of the Representation of the People (No. 2) Act, 1920 (which, as amended by Part II of this Act, provides that, in the case of a by-election for a borough, the day fixed for nomination shall not be later than the seventh day after the day on which the writ is received) ;

shall have effect as if there were substituted, for the reference to the date of His Majesty's proclamation or the day on which the writ is received, as the case may be, a reference to the day on which the register under this Part of this Act comes into force for that election. [346]

"Principal Act" is defined by s. 22, *post*, and "war election" by s. 1 (2), *ante*. The definition of "general election" contained in s. 41 (3) of the principal Act (7 Statutes 570) is applied by s. 22, *post*.

In relation to war general elections the time between the Royal Proclamation and the poll is extended to fifty-three days. This is to enable the register to be revised and published, which will take thirty-six days (see s. 1 (5), *ante*). This process is commenced upon the initiation of the election under sub-s. (1) hereof. Rule 2A of Schedule I to the Ballot Act, 1872 (7 Statutes 437) is modified by sub-s. (2) (a) hereof, so that the eight days to the "date fixed for the election" (*i.e.* nomination day) runs from the publication of the register. Polling takes place on the ninth day following under r. 14A of Schedule I of the Ballot Act, 1872 (7 Statutes 439). The time for the meeting of Parliament after a war general election is likewise to be at least twenty days from the publication of the register (instead of from the Royal Proclamation, as provided by s. 21 (3) of the Representation of the People Act, 1918 (7 Statutes 561) (sub-s. (2) (b) hereof)).

A similar modification is effected in relation to war by-elections. The election is initiated at the date on which the writ is received (sub-s. (1)), but time runs in respect of the various processes from the publication of the register on the thirty-sixth day. The necessary modifications are effected by sub-s. (2) (c) and (d) to Schedule I, r. 2 of the Ballot Act, 1872 (7 Statutes 437) and to s. 3 of the Representation of the People (No. 2) Act, 1920 (*ibid.*, 646) ; the amendments made to those enactments by s. 33 and Schedule VI of this Act, *post*, are not relevant to this section.

**3. Dissolution of parliament on future date.**—If, at any time when no register under this Part of this Act for the election of members to serve in a new parliament is in force, His Majesty is pleased, by a proclamation dissolving a parliament and summoning a new parliament, to dissolve the parliament on a future date fixed by the proclamation,—

- (a) the date so fixed shall not be later than the day on which the register under this Part of this Act for the election of members to serve in the new parliament comes into force ; and
- (b) any writ for the election of a member to serve in the existing parliament issued but not returned before the date of the proclamation

shall be superseded as if the parliament had been dissolved on the date of the proclamation. [347]

This section obviates a long interval when there is no parliament, which would occur if parliament were dissolved at the date of the Royal Proclamation. Dissolution, however, must take place not later than the publication of the register, so that there is no parliament during the election campaign. By-elections are superseded by the Royal Proclamation under para. (b) although the parliament has not been dissolved. A register is published and brought into force under s. 1 (5), *ante*, for each election.

See also s. 34, *post*, as to the summoning of parliament during the prorogation which normally precedes dissolution.

**4. Remote constituencies.**—(1) If the Secretary of State is satisfied as respects any constituency that, owing to delay or interruption, or the likelihood of delay or interruption, in communications between the registration officer and other persons, the time allowed by subsection (5) of section one of this Act for the publication of the register is insufficient, he may by order direct that that subsection shall have effect as respects that constituency with the substitution for the thirty-sixth day of such later day, not being later than the forty-second day, as may be specified in the order. [348]

(2) Any such order—

- (a) may be made either generally or as respects a particular election, and may be made in the course of a particular election; and
- (b) may direct that any provision of electoral registration regulations relating to the time at or within which anything must be done in connection with the preparation of the register for an election shall apply to the constituency subject to such modifications as may be specified in the order, and may postpone or extend any such time notwithstanding that it has elapsed or expired; and
- (c) may be varied or revoked by a subsequent order of the Secretary of State. [349]

(3) Where such an order is in force as respects an election in any constituency—

- (a) subsection (2) of section two of this Act and the last foregoing section shall have effect as if the register for the election had come into force on the day on which it would have come into force but for the provisions of the order;
- (b) for the purpose of the provisions of section one of the Ballot Act, 1872, requiring the nomination of a candidate to be subscribed by registered electors, a person who has been included in any electors list for the election, and to whose inclusion therein no objection has been duly taken, shall be treated as if he were a registered elector. [350]

“Electoral registration regulations” is defined by s. 22, *post*, and “constituency” by s. 41 (1) of the Representation of the People Act, 1918 (7 Statutes 570), applied by s. 22.

This section enables the date of publication of the register to be postponed, but does not affect the time between the initiation of the election and polling (see s. 2, *ante*), in view of sub-s. (3) (a). Sub-s. (3) (b) is necessary since nomination takes place on the forty-fourth day, and the register may only be published on the forty-second day.

#### *Civilian voters in United Kingdom*

**5. Civilian residence register.**—(1) Subject to the provisions of this Part of this Act, a person, being on the qualifying date a British subject of full age and not subject to any legal incapacity, shall be entitled to be registered in the civilian residence for an election in any constituency, if on that date that person either—

- (a) is registered in the National Register as residing at a place in the constituency and has—

- (i) throughout the period of two months ending with that date ; or
  - (ii) if within that period he became registered in the National Register on ceasing to be a member of the forces or a seaman, throughout the period since his becoming so registered ;
- been registered in the National Register as residing at that place or some other place in the same constituency ; or
- (b) having had at some earlier date (not being earlier than the appointed day) such qualifications as would have entitled him under the foregoing provisions of this section to be registered in the civilian residence register for the election if that earlier date had been the qualifying date, has at no time since that earlier date been either—
    - (i) registered in the National Register as residing at one place in some other constituency, or at two or more places consecutively in one other constituency, for a continuous period of two months ; or
    - (ii) removed from the National Register on becoming exempt from registration therein by virtue of national registration regulations ; or
    - (iii) registered in the National Register as having been resident outside the United Kingdom for a continuous period of two months. [351]
- (2) For the purposes of the foregoing subsection—
    - (a) a person who, from the particulars entered with respect to him in the National Register, appears to be a British subject of full age and not subject to any legal incapacity shall be treated as such until the contrary is proved ;
    - (b) a person shall not be treated as registered in the National Register as residing at a place in any constituency if he is so registered as usually resident outside the United Kingdom. [352]
  - (3) National registration regulations may—
    - (a) prescribe the information with respect to the National Register which is to be furnished to registration officers for the purposes of this section, and the form and manner in which, and the persons by whom, such information is to be furnished ; and
    - (b) provide that any such information with respect to the part of the said Register relating to any county borough or county district shall be furnished in the first instance to the proper officer of the council of that borough or district and forwarded by him to the registration officers concerned ;

and information duly furnished to a registration officer in accordance with the said regulations shall be conclusive evidence that any matter is or is not entered in that Register with respect to any person. [353]

"Qualifying date" is defined by s. 1 (4), *ante*. "Constituency" is defined by s. 41 (1) of the Representation of the People Act, 1918 (7 Statutes 570), applied by s. 22, *post*. "National registration regulations", "member of the Forces" and "seaman" are defined by s. 22, *post*. As to the National Register, see the National Registration Act, 1939 (32 Statutes 1106).

The National Registration Amendment (No. 2) Regulations, 1943 (S. R. & O., 1943, No. 1708), Regulation 9, requires an entry in the register as to "whether or not the usual place of residence of the person to whom the return relates is outside Great Britain and Northern Ireland". This enables persons usually resident abroad to be excluded from the civilian residence register under sub-s. (2) (b).

The National Registration (Civilian Residence Register) Regulations, 1943 (S. R. & O., 1943, No. 1775), prescribe the necessary machinery as required by sub-s. (3): The information is sent to the "proper officer" (as defined by s. 13 (3), *post*) instead of direct to the electoral registration officer, because the boundaries of constituencies do not necessarily coincide with

those of the local authorities, and the local national registration officer could not be expected to know these differences.

The section is applied with modifications to persons ceasing to be war workers by Regulation 2 of the Electoral Registration Regulation, 1943 (S. R. & O., 1943, No. 1728), *post*.

**6. Business premises register.**—(1) Subject to the provisions of this Part of this Act, a person, being on the qualifying date a British subject of full age and not subject to any legal incapacity, shall be entitled to be registered in the business premises register for an election in any constituency if on that date that person either—

(a) is occupying business premises in the constituency, and has, throughout the period of two months ending with that date, occupied those business premises or some other business premises in the same constituency; or

(b) is the husband or wife of a person qualified to be registered by virtue of the foregoing provisions of this subsection :

Provided that no person shall be entitled to be registered in the business premises register unless that person makes an application in that behalf in the prescribed form and manner and within the prescribed time stating the prescribed particulars. [354]

(2) Where a husband and wife are qualified to be registered in respect of any business premises by virtue of the foregoing provisions of this section, the said application may be made by either of them on behalf of both of them. [355]

(3) In this section the expression "business premises" has the same meaning as in section one of the principal Act and subsection (1) of section seven of that Act (which relates to joint occupiers) and section seventeen of that Act (which relates to separate lists of liverymen) shall apply for the purposes of this section as they apply for the purposes of that Act. [356]

"Qualifying date" is defined by s. 1 (4), *ante*. "Constituency" is defined by s. 41 (1) of the Representation of the People Act, 1918 (7 Statutes 570), applied by s. 22, *post*. "Prescribed" is defined by s. 22, *post*.

The qualifications for registration in the business premises register are not altered, and still depend on ss. 1, 7 (1) and 17 of the Representation of the People Act, 1918 (7 Statutes 548, 552, 559). Inclusion in the register, however, is no longer automatic, following a canvass, but depends on applications being made. This change is made because there would not be time for a canvass after the initiation of an election. No provision is made for notifying persons of their rights, but the position of persons in the forces is safeguarded by the provision of sub-s. (2) allowing application to be made by husband or wife.

As to penalties for false declarations, see s. 15, *post*.

**7. Civilian absent voters.**—(1) Electoral registration regulations shall provide for the preparation of an absent voters list, and for the entry therein of the name of any person registered in the civilian residence register or the business premises register who, on an application duly made in that behalf as respects an election, or, if the regulations so provide, as respects a period prescribed by the regulations, satisfies the registration officer that by reason of the nature of his occupation, service or employment, he may be debarred from voting at a poll at that election or at any election initiated during that period. [357]

(2) The provisions of section twenty-three of the principal Act (which enable persons placed on the absent voters list under that Act to vote by post or by proxy) shall apply to persons placed on the absent voters list under this Part of this Act subject to the modifications specified in the First Schedule to this Act. [358]

Compare sub-s. (1) with Schedule I, r. 16, of the Representation of the People Act, 1918 (7 Statutes 575). The same considerations are to be considered by the registrar as under the principal Act, but the details as to the preparation of the list are to be contained in electoral registration regulations (as defined in s. 22, *post*), and the application is to be in respect of a particular election or period, instead of in respect of a particular issue of the register.

For s. 23 of the principal Act, see 7 Statutes 502.

*Members of the Forces, seamen and war workers abroad*

**8. Service register.**—(1) Subject to the provisions of this Part of this Act, a person, being on the qualifying date a British subject of full age and not subject to any legal incapacity, shall be entitled to be registered in the service register for an election in any constituency, if on that date that person—

- (a) is a member of the forces or a seaman ; and
- (b) is residing at a place in the constituency, or would be so residing but for his service as a member of the forces or a seaman. [359]

(2) No person shall be entitled to be registered in the service register for an election in any constituency unless there has been transmitted to the registration officer for that constituency in any manner authorised by national registration regulations, and received by that officer on or before the qualifying date, a declaration in the prescribed form (hereafter in this Part of this Act referred to as a “service declaration”) which purports to be signed by that person and to be attested by such other person as may be prescribed and states—

- (a) the date of the declaration, and that on that date the declarant was a British subject ; and
- (b) whether the declarant had, on the date of the declaration, attained the age of twenty-one years, and, if he had not, the date of his birth ; and
- (c) that on the date of the declaration the declarant was, or but for his service as a member of the forces or a seaman would have been residing at a place in the constituency of which the postal address is specified in the declaration ; and
- (d) the declarant’s service number (if any) and such\*other particulars of identity (if any) as may be prescribed. [360]

(3) A person who has made a service declaration may at any time cancel it in the prescribed form and (if he so desires) make a further service declaration to some other place of residence. [361]

(4) A service declaration which declares to more than one place of residence shall be void, and not more than one service declaration made by the same person shall have effect at the same time ; and accordingly, where a person makes two or more service declarations without expressly cancelling the earlier declaration or declarations, the following provisions shall apply :—

- (a) two or more declarations bearing the same date shall be void ;
- (b) subject to paragraph (a) of this subsection, a declaration bearing a later date shall, without any express cancellation, cancel a declaration bearing an earlier date. [362]

(5) Where, on the qualifying date for an election in any constituency,—

- (a) a service declaration declaring to a place of residence in the constituency has been transmitted to the registration officer in manner authorised by national registration regulations and received by him ; and
- (b) the registration officer has not been notified in manner so authorised that the declaration has been cancelled or that the declarant has ceased to be a member of the forces, or a seaman ;

then for the purpose of determining the declarant’s right to be registered in the service register for the election—

- (i) that place shall be deemed to be the place at which he is, or but for his service as a member of the forces or a seaman would be, residing on the qualifying date ; and

- (ii) he shall be treated until the contrary is proved as being on that date a member of the forces or a seaman, according to the form of the declaration, and a British subject of the age appearing from the declaration and not subject to any legal incapacity.

[363]

(6) National registration regulations may provide for the following matters, that is to say :—

- (a) the manner in which any service declaration and any cancellation of any such declaration is to be transmitted or notified to the registration officer concerned ;
- (b) the manner in which the registration officer concerned is to be notified that a person who has made a service declaration has died or otherwise ceased to be a member of the forces or a seaman ;
- (c) the compilation and maintenance of a central index (whether as an adjunct to the National Register or otherwise) of all persons who have made service declarations, containing such particulars as to those persons and the service declarations made by them as appear to be necessary for the purposes of this Part of this Act,

and the notification to a registration officer in accordance with the said regulations that a service declaration has been cancelled or that a person has died or otherwise ceased to be a member of the forces or a seaman shall, for the purposes of this section, be conclusive evidence of the fact so notified.

[364]

(7) A person who is registered in the service register for any election shall be deemed for the purposes of this Part of this Act and the principal Act to be registered in respect of a residence qualification. [365]

For definitions of "constituency", "member of the forces", "national registration regulations" and "prescribed", see s. 22, *post*. For definition of "qualifying date", see s. 1 (4), *ante*.

No national registration regulations had been made under sub-s. (6) at the time of going to press.

The manner of alteration and form of service declaration and cancellation thereof are prescribed by the Electoral Registration Regulations, 1943 (S. R. & O., 1943, No. 1728), Regulations 6-8, Schedule, *post*.

Sub-ss. (5) and (6) are applied with modifications in relation to war workers abroad by Regulation 1 of the Electoral Registration Regulations, 1943 (S. R. & O., 1943, No. 1728), *post*.

As to penalties for false declarations, see s. 15, *post*.

**9. Mode of voting of service voters.**—(1) A person who has made a service declaration (hereafter referred to as a "service voter") may appoint a proxy to vote for him at any election for which he may be registered in the service register by virtue of that declaration, and having appointed a proxy may, subject to the following provisions of this section, vote by that proxy at any such election.

The provisions of the Second Schedule to this Act shall have effect in relation to the appointment and voting of proxies under this section. [366]

(2) A service voter, whether he has appointed a proxy under this section or not, may vote in person at an election for which he is registered in the service register, but, where he is entitled to vote by proxy at the election, only if he applies for a ballot paper before a ballot paper has been issued to the proxy, and in that event the appointment of the proxy shall be void as respects that election.

Nothing in the second paragraph of section twenty-four of the Ballot Act, 1872, shall be taken to penalise a service voter who, after a proxy appointed by him has voted at an election, applies for a ballot paper for the purpose of voting in person. [367]

(3) A member of the forces, whether he has appointed a proxy under this section or not, may elect, by notice in the prescribed form given to the



registration officer within the prescribed time after the initiation of an election for which he is qualified to be registered in the service register, to vote by post at that election; and thereupon, as respects that election, any appointment of a proxy made by him shall be void and he shall be entitled, if registered in the service register for the election as a member of the forces, to vote by post in the same way as an absent voter and shall not be entitled to vote otherwise than by post:

Provided that any such notice shall be void unless it gives an address in the United Kingdom as the address to which a ballot paper is to be sent in pursuance of the notice. [368]

"Service declaration" is defined by s. 8 (2), *ante*.

This section provides three methods of voting: by proxy, in person, and by post. The choice to vote by post must be made within the prescribed time after the initiation of the election and is irrevocable (sub-s. (3)). The choice to vote in person may be taken at any time before a ballot paper has been issued to the proxy (if any), and even after that the mere act of applying for a ballot paper is not an offence (sub-s. (2)).

The form of proxy is prescribed by the Electoral Registration Regulations, 1943 (S. R. & O., 1943, No. 1728), Schedule, *post*.

War workers abroad may only vote in person or by proxy, and sub-ss. (1) and (2) are accordingly applied by Regulation 3 of the Electoral Registration Regulations, 1943 (S. R. & O., 1943, No. 1728), *post*.

**10. Arrangements for exercise of rights by service voters.**—Arrangements shall be made—

- (a) as respects members of the forces, by the Admiralty, Army Council or Air Council, as the case may be;
- (b) as respects seamen, by the Minister of War Transport;

for securing that (so far as circumstances permit) every person appearing to be qualified to make a service declaration shall—

- (i) have an effective opportunity of exercising from time to time as occasion may require the rights conferred on him by this Part of this Act in relation to the making and cancellation of service declarations, and of appointments of a proxy, and in relation to voting by post; and
- (ii) receive such instructions as to the effect of this Part of this Act and any regulations made under or by virtue of this Part of this Act, and such other assistance, as may be reasonably sufficient in connection with the exercise of those rights. [369]

As to the making of service declarations, see s. 8, *ante*; and as to the appointment of proxies and method of voting by post, see s. 9, *ante*.

Parallel provisions as to war workers abroad are contained in Regulation 4 of the Electoral Registration Regulations, 1943 (S. R. & O., 1943, No. 1728), *post*.

**11. War workers abroad.**—(1) Electoral registration regulations shall provide for conferring, on persons for the time being registered in the National Register as persons engaged in war work abroad, rights similar (as nearly as may be) to those conferred by this Part of this Act on seamen, and for making such modifications of this Part of this Act in its application to persons so registered as may appear to the Secretary of State to be necessary or expedient for that purpose. [370]

(2) National registration regulations shall provide for the registration in the National Register as a person engaged in war work abroad of any person who—

- (a) is certified on behalf of a government department to be engaged in work of national importance outside the United Kingdom (whether ashore or afloat) in connection with any war in which His Majesty may be engaged; and



(b) makes such a declaration as may be prescribed by the regulations ; and for the circumstances in which a person registered as so engaged is to cease to be so registered. [371]

The Electoral Registration Regulations, 1943 (S. R. & O., 1943, No. 1728), Regulations 1-5, *post*, apply the Act to war workers with modifications under sub-s. (1).

*General provisions as to registration*

**12. Preparation of register.**—(1) Electoral registration regulations shall provide for securing the compilation and publication by registration officers of a register as and when required by this Part of this Act, and may apply any of the registration rules set out in the First Schedule to the principal Act subject to any modifications made by the regulations. [372]

(2) Without prejudice to the generality of the foregoing subsection, electoral registration regulations shall, subject to the provisions of the next following subsection, provide—

(a) for the publication, after the qualifying date for an election and before the register comes into force, of lists of persons who appear to the registration officer to be qualified to be registered in the civilian residence register and business premises register for the election ; and

(b) for the determination by the registration officer of claims and objections with respect to the said lists. [373]

(3) As soon as the Secretary of State is satisfied that sufficient staff and printing facilities are available for the operation of the following provisions, electoral registration regulations shall provide—

(a) as respects the civilian residence and service registers (subject to the provisions of the regulations)—

(i) for the publication in each constituency on a date specified in the regulations of lists of persons who appear to the registration officer to be qualified to be registered if an election were initiated in the constituency on that date ; and

(ii) for the periodical revision of the said lists and for the preparation and publication after any revision of supplementary lists showing the changes made at that revision ;

(b) as respects the business premises register (subject as aforesaid)—

(i) for the making of annual applications to be registered for any election initiated during the twelve months beginning with such date in each year as may be prescribed ; and

(ii) for the substitution accordingly of such date in each year as may be prescribed as the qualifying date for such an election, instead of the date mentioned in section one of this Act ; and

(iii) for the annual preparation and publication in each constituency of a list of persons, who having made such applications, appear to the registration officer to be qualified to be so registered ; and

(c) for the determination by the registration officer of claims and objections with respect to each of the said lists ;

and shall accordingly provide for the revocation of the provisions included in the regulations by virtue of the last foregoing subsection. [374]

(4) No appeal shall lie from the determination of a registration officer of any claim or objection made with respect to any list published in pursuance

of subsection (2) of this section, but, as respects claims and objections made with respect to any list published in pursuance of subsection (3) of this section, an appeal shall lie from the determination of the registration officer in accordance with the provisions of section fourteen of the principal Act, subject to any modifications made by the regulations. [375]

This section contemplates two periods : the first during actual hostilities when staff and printing facilities only permit the publication of an *ad hoc* register for a particular election (sub-s. (2)) ; and a post-war period when staff and facilities are improved and the register can be published and periodically revised (sub-s. (3)). Only in the second period is there a right of appeal against a determination of a claim or objection (sub-s. (4)).

For s. 14 and Schedule I of the principal Act, see 7 Statutes 557, 572.

**13. Registration officers.**—(1) Sections twelve, sixteen and forty-five of the principal Act (which defines registration officers and their areas) shall apply for the purposes of the registration of electors under this Part of this Act as they apply for the purposes of such registration under that Act. [376]

(2) It shall be the duty of the registration officer for any constituency—

- (a) in accordance with this Part of this Act and electoral registration regulations, to compile and publish the register required for any election in the constituency, and to place, or cause to be placed, on the register the names of those entitled to be registered ; and
- (b) to perform such duties as may be imposed upon him for the purposes of this Part of this Act by national registration regulations ; and
- (c) to comply with any general or special instructions which may be given by the Secretary of State with respect to the arrangements to be made by him for carrying out his duties under this Part of this Act, electoral registration regulations and national registration regulations. [377]

(3) For the purposes of this Part of this Act, the proper officer of the council of a county borough or county district shall be the town clerk or the clerk of the council, and it shall be the duty of every such council to provide their proper officer with such staff as he may require for the discharge of his duties under this Part of this Act and national registration regulations made by virtue thereof. [378]

(4) Without prejudice to any power of a registration officer to appoint a deputy,—

- (a) all or any of his functions under this Part of this Act or electoral registration regulations in connection with the preparation and publication of any electors list or of any supplementary list ; and
- (b) all or any of the duties imposed on him for the purposes of this Part of this Act by national registration regulations ;

may, if he so desires, be performed in relation to any county borough or county district or any part thereof through the proper officer of the council thereof ; and it shall be the duty of that officer, on being requested so to do by the registration officer,—

- (i) to perform any such functions or duties as aforesaid in relation to the borough or district or the part thereof specified in the request ;
- (ii) whether or not he is performing any such functions or duties, to give to the registration officer such information as the registration officer may reasonably require from him for the purposes of this Part of this Act ;

as well as to perform such duties as may be imposed upon him for the purposes of this Part of this Act by national registration regulations. [379]

(5) If, without reasonable excuse, a registration officer or the proper officer of a council fails to perform any of his duties under this Part of this Act of electoral registration regulations or national registration regulations, he shall be liable on summary conviction to a fine not exceeding one hundred pounds. [380]

For ss. 12, 16 and 45 of the principal Act, see 7 Statutes 555, 558, 572.

"Electoral registration regulations" and "national registration regulations" are defined by s. 22, *post*. Regulations made up to the end of 1943 are :

Electoral Registration Regulations, 1943 (S. R. & O., 1943, No. 1728), *post*.

National Registration (Civilian Residence Register) Regulations, 1943 (S. R. & O., 1943, No. 1775).

**14. Expenses of registration.**—(1) Any expenses incurred for the purposes of this Part of this Act by the Registrar-General of births, deaths and marriages in England or the Registrar-General of births, deaths and marriages in Scotland shall be defrayed out of moneys provided by Parliament. [381]

(2) There shall be paid to a registration officer out of moneys provided by Parliament—

- (a) such expenses in the performance of his duties under this Part of this Act, electoral registration regulations and national registration regulations made by virtue of this Part of this Act as may be properly incurred by him in accordance with arrangements approved by the Treasury ;
- (b) such charges as may be approved by the Treasury for his own trouble, care and attention in the performance of those duties ; and
- (c) any costs properly incurred by him as party to an appeal against his determination of any claim or objection with respect to an electors list. [382]

(3) There shall be paid to the proper officer of the council of a county borough or county district any expenses properly incurred by him in the performance of his duties under this Part of this Act or national registration regulations made by virtue of this Part of this Act, including reasonable charges for his own trouble, care and attention in the performance of those duties, and for the remuneration and expenses of any staff provided by the council, and expenses so incurred by the proper officer shall for the purposes of this section—

- (a) in so far as they have been incurred in the performance of his duties under national registration regulations, be treated as having been incurred for the purposes of this Part of this Act by the Registrar General of births, deaths and marriages in England ; and
- (b) in so far as they have been incurred in the performance of other duties, be treated as having been incurred in the performance of his duties under this Part of this Act by the registration officer at whose request the duties were performed. [383]

(4) Any fees or other sums received by a registration officer in respect of his duties as such an officer, other than sums paid to that officer in pursuance of the foregoing provisions of this section, shall be accounted for by that officer to the Treasury in such manner as the Treasury may direct and paid into the Exchequer. [384]

As to the manner in which the personal remuneration of a returning officer who is the clerk of a county council shall be dealt with under s. 99 (2) of the Local Government Act, 1933, see Regulation 9 of the Electoral Registration Regulations, 1943 (S. R. & O., 1943, No. 1728), *post*.

**15. Penalty for false declarations, etc.—**(1) Any person who—

(a) makes either—

(i) an application to be registered in the business premises register ; or

(ii) a service declaration ; or

(iii) a declaration required for the purpose of becoming registered in the National Register as a person engaged in war work abroad ;

knowing that the application or declaration contains a statement which is false ; or

(b) attests a service declaration knowing that he is not authorised to do so or that it contains a false statement as to the service number or other prescribed particulars of the identity of the declarant ; or

(c) signs a certificate for the purposes of this Part of this Act that a person is engaged in work of national importance outside the United Kingdom (whether ashore or afloat) in connection with any war in which His Majesty may be engaged, knowing that he is not authorised by a government department to do so ;

shall be liable on summary conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment, or on conviction on indictment to imprisonment for a term not exceeding two years. [385]

(2) Section thirty-eight of the principal Act (which relates to offences under that Act committed out of the United Kingdom) shall apply to offences under this section as it applies to offences under that Act. [386]

For s. 38 of the principal Act, see 7 Statutes 569.

*Miscellaneous*

**16. Right of person registered to vote.—**(1) Subject to the provisions of this section, every person registered under this Part of this Act for an election in any constituency shall be entitled to vote at that election :

Provided that nothing in this Part of this Act shall entitle any person to vote if he is not a British subject, or is not of full age, or is subject to any legal incapacity. [387]

(2) A person shall not vote at a general election for more than one constituency (including a university constituency) other than that in which he is registered under this Part of this Act in respect of a residence qualification. [388]

(3) Section twenty-two of the principal Act (which imposes a penalty for voting at a general election in more constituencies than is allowed by that Act) shall have effect as if the reference to that Act included a reference to this section. [389]

The definitions of "constituency" in s. 41 (1) and of "general election" in s. 41 (3) of the principal Act, 1918 (7 Statutes 570), are applied by s. 22, *post*.

Under sub-s. (1) a person is entitled to vote even if wrongly included in the register, unless the reason why he should not have been included is one of those mentioned in the proviso.

Sub-s. (2) corresponds to s. 8 (1) of the principal Act, 1918 (7 Statutes 554).

For s. 22 of the principal Act, see 7 Statutes 561.

**17. Death of candidate.—**Notwithstanding anything in section one of the Ballot Act, 1872, where one of the candidates nominated for a war election dies before the poll has commenced—

- (a) the register prepared under this Part of this Act for the election shall remain in force for the purpose of all further proceedings with reference to the election ; and
- (b) subsection (2) of section two of this Act shall not apply with respect to those further proceedings. [390]

For s. 1 of the Ballot Act, 1872, see 7 Statutes 427.

Where a candidate dies before the poll, no new register is prepared for the fresh election ; but since the register has already been published, time runs in respect of the matters mentioned in s. 2 (2) from the date of proof of death (see s. 1 of the Ballot Act, 1872, *supra*) instead of from the date of publication of the register.

### 18. Appointment of proxies for service voters at university elections.—

(1) A person entitled to vote at a university election shall be entitled to appoint a proxy to vote for him at any such election if, at the time of his application for the issue of a proxy paper, he is a member of the forces or a seaman. [391]

(2) An application for the issue of a proxy paper by any such person, being a member of the forces or a seaman, may be made on the same form as that prescribed under this Part of this Act for use by service voters, and where such a form purporting to be signed by any person is accompanied by a declaration—

- (a) purporting to be signed by the same person and bearing the same date as the application ; and
- (b) in the same form and attested in the same manner and, subject as hereafter provided, stating the same particulars as a service declaration ;

the declaration shall be conclusive evidence that the said person was a member of the forces or a seaman at the time of the application :

Provided that the particulars to be stated in any such declaration shall not include particulars as to the residence of the declarant, but shall in lieu thereof include particulars of the university constituency in which he is entitled to vote. [392]

(3) The provisions of section fifteen of this Act shall apply to any such declaration as if it were a service declaration. [393]

(4) Any proxy paper issued by virtue of this section shall, unless cancelled, remain in force until the expiration of this Part of this Act. [394]

(5) Save as provided by the foregoing provisions of this section, nothing in this Part of this Act shall affect the provisions of the principal Act or any Order in Council made thereunder relating to the appointment and voting of proxies at university elections. [395]

“ University election ” and “ university constituency ” are defined by s. 41 (4) of the principal Act (7 Statutes 570), applied by s. 22, *post*. “ Member of the forces ”, “ seaman ” and “ prescribed ” are defined by s. 22, *post*. “ Service declaration ” is defined by s. 8 (2), *ante*.

The form of application for a proxy paper is adapted from the Schedule to the Electoral Registration Regulations, 1943 (S. R. & O., 1943, No. 1728), *post*.

**19. Transitional.**—(1) On the expiration of the National Registration Act, 1939 (hereafter in this subsection referred to as “ the Act of 1939 ”) the following provisions shall have effect :—

- (a) a register shall be prepared under this Part of this Act for each constituency, other than a university constituency, as if a general election had been initiated on the last day on which the Act of 1939 was in force ;
- (b) the said register shall be the parliamentary register of electors in force for any election initiated in such a constituency after the

expiration of the Act of 1939, being an election at which the time fixed for nomination occurs before the expiration of this Part of this Act ;

- (c) subsection (2) of section two of this Act shall apply to any election initiated after the expiration of the Act of 1939 and before the said register comes into force as it applies to a war election ;
- (d) until the expiration of this Part of this Act, any national registration regulations made by virtue thereof shall continue in force, and may be varied or revoked, as if the Act of 1939 had not expired.

[396]

(2) In any year in which the National Registration Act, 1939, is in force after the thirty-first day of March no parliamentary register of electors shall be prepared under section eleven of the principal Act. [397]

(3) No payment shall be made out of moneys provided by Parliament under subsection (4) of section fifteen of the principal Act on account of any registration expenses incurred after the appointed day and before the end of the last year throughout which this Part of this Act is in force, other than registration expenses payable by virtue of section eighteen of that Act. [398]

(4) Notwithstanding anything in the Juries Act, 1922, or in any other enactment, the jurors book prepared for a county for the year beginning with the first day of January, nineteen hundred and forty, shall be the jurors book for that county until the end of the year in which this Part of this Act expires ; and no further jurors book shall be prepared for any county in any year in which a parliamentary register of electors is required not to be prepared under section eleven of the principal Act by virtue of this section. [399]

(5) No person shall by virtue of any enactment or rule of law be required to perform any duty solely with a view to the preparation of a register of electors or a jurors book which by virtue of this section is not to be prepared. [400]

As to the expiration of the National Registration Act, 1939, see s. 12 (4) thereof (32 Statutes 1112). On such expiry a register is to be prepared (sub-s. (1) (a)), to be used at any election until the expiration of this Part of this Act, that is to say, until a new parliamentary register of electors has been prepared under s. 11 of the principal Act (7 Statutes 555) (sub-s. (2) (b)). The register under that section (as amended by the Representation of the People (Economy Provisions) Act, 1926, s. 9, Schedule III, 7 Statutes 649, 650) comes into force on October 15 each year. No register is to be prepared until the year in which the National Registration Act, 1939, expires, or, if it expires after March 31, until the next year (sub-s. (2)). This Part of this Act will expire the day before the next register comes into force (see s. 25 (2), *post*).

S. 2 (2), *ante*, remains in force until the register prepared under sub-s. (1) (a) comes into force (sub-s. (1) (c)). Thereafter no *ad hoc* register for a particular election is prepared and so s. 2 (2) is not applicable. "War election" is defined by s. 1 (2), *ante*.

"National registration regulations" (as defined by s. 22, *post*) may be made [under ss. 5 (1) (3), 8 (2) (6), 11 (2), *ante*].

Sub-s. (2) takes the place of s. 2 (3) of the Local Elections and Register of Electors (Temporary Provisions) Act, 1939 (32 Statutes 1232), which is repealed in so far as it relates to the parliamentary register (with transitional provisions) by the Local Elections and Register of Electors (Temporary Provisions) Act, 1943, Schedule, *post*. Note that whereas previously the revision of the register was postponed by an Act which received annual renewal it is now postponed once for all until after the expiry of the National Registration Act, 1939, *supra*. For s. 11 of the principal Act, see 7 Statutes 552.

Sub-s. (3) is consequential upon the postponement of revision of the register under the principal Act, but is new. For ss. 15 (4) and 18 of the principal Act, see 7 Statutes 558, 559. The latter section relates to compensation to existing officers.

Sub-ss. (4) and (5) correspond to ss. 2 (4) and 3 of the Local Elections and Register of Electors (Temporary Provisions) Act, 1939 (32 Statutes 1232). These are repealed (s. 3 in part only) by the Local Elections and Register of Electors (Temporary Provisions) Act, 1943, Schedule, *post*. Note that the provisions as to revision of jurors' books are no longer contained in an Act which receives annual renewal, but in an enactment which is to remain in force until after the expiry of the National Registration Act, 1939, *supra*.

**20. Approval of electoral registration regulations by Parliament.**—All electoral registration regulations shall be laid before Parliament by the



Secretary of State as soon as may be after they are made and shall not come into operation until they are approved by resolution of each House, but if so approved shall come into operation on such date as may be specified in the regulations. [401]

**21. Application and adaptation of enactments.**—(1) The provisions of Parts I and II of the principal Act shall not apply to registration under this Part of this Act or to voting at an election for which a register is prepared under this Part of this Act, except in so far as they are expressly applied by or under this Part of this Act :

Provided that nothing in this Part of this Act shall affect the provisions of subsections (1), (4) and (5) of section nine of the principal Act (which relate to disqualifications). [402]

(2) The provisions of the Third Schedule to this Act shall have effect for the purpose of adapting enactments to the provisions of this Part of this Act. [403]

(3) Save as expressly provided by this Part of this Act, nothing in this Part of this Act shall affect the law relating to parliamentary elections. [404]

Parts I and II (ss. 1-19) of the principal Act (7 Statutes 548) only apply as expressly applied, save that the provisions of s. 9 (1), (4) and (5) are preserved (sub-s. (1)). All other provisions as to parliamentary elections are preserved by sub-s. (3), certain enactments being, however, modified by sub-s. (2) and Schedule III.

**22. Interpretation of Part I.**—In this Part of this Act, except where the contrary intention appears, the following expressions have the meanings hereby respectively assigned to them—

“appointed day” means such day as may be appointed by order of the Secretary of State ;

“bank holiday” means—

(a) in relation to a general election, a day which is a bank holiday under the Bank Holidays Act, 1871, as amended by any subsequent enactment (including Defence Regulations), in any part of the United Kingdom ; and

(b) in relation to a by-election, a day which is a bank holiday under the said Act as so amended in that part of the United Kingdom in which the constituency in question is situated ;

“electoral registration regulations” means regulations made by the Secretary of State under this Part of this Act ;

“electors list” means a list, prepared by a registration officer in pursuance of electoral registration regulations, of persons who appear to him to be qualified to be registered under this Part of this Act ;

“member of the forces” means a person who, being a member of—

(a) any of the armed forces of the Crown raised in the United Kingdom ;

(b) the Women’s Royal Naval Service ;

(c) the Queen Alexandra’s Royal Naval Nursing Service ;

(d) any other organisation established under the control of the Admiralty, Army Council or Air Council and raised in the United Kingdom ;

is, or would if he were in the United Kingdom be, by virtue of such membership for the time being exempt under national registration regulations from registration in the National Register ;



“national registration regulations” means regulations made by the Ministers under the National Registration Act, 1939 ;

“prescribed” means prescribed by electoral registration regulations ;

“principal Act” means the Representation of the People Act, 1918, as amended by any subsequent enactment or Order in Council ;

“seaman” means a person who is for the time being exempt under national registration regulations from registration under the National Registration Act, 1939, as being a seaman, or who would be so exempt if he were in the United Kingdom, being a person whose usual place of residence is in the United Kingdom ;

and the expressions “constituency”, “general election”, “university constituency” and “university election” have the same meanings as in the principal Act. [405]

For the Bank Holidays Act, 1871, see 19 Statutes 417.

For the National Registration Act, 1939, see 32 Statutes 1106.

For the Representation of the People Act, 1918, see 7 Statutes 548.

The expressions “constituency”, “general election”, “university constituency” and “university election” are defined by s. 41 (1), (2) and (4) (7 Statutes 570), as follows :—

- “(1) The expression ‘constituency’ means any county, borough, or combination of places, or university or combination of universities, returning a member to serve in Parliament ; and, where a county or borough is divided for the purpose of parliamentary elections, means a division of the county or borough so divided ; and elections for any such division shall be held in the same manner and subject to the same provisions as those for undivided counties or boroughs ;
- “(3) The expression ‘general election’ means an election of members to serve in a new Parliament of the United Kingdom ;
- “(4) The expression ‘university constituency’ means a constituency consisting of a university or a combination of universities ; and the expression ‘university election’ means an election of a member or members of Parliament for a university constituency”.

### 23. Application of Part I to Scotland. [406]

### 24. Application of Part I to Northern Ireland. [407]

**25. Citation and duration of Part I.**—(1) This Part of this Act may be cited separately as the Parliamentary Electors (War-time Registration) Act, 1943, and shall be included among the Acts which may be cited as the Representation of the People Acts. [408]

(2) This Part of this Act shall expire with the fourteenth day of October in the year in which the National Registration Act, 1939, expires or, if that Act expires in any year after the thirty-first day of March, with the fourteenth day of October in the next following year :

Provided that—

- (a) on the expiration of this Part of this Act subsection (2) of section thirty-eight of the Interpretation Act, 1889, shall apply as if this Part of this Act had then been repealed by another enactment ; and
- (b) where the day fixed for nomination at any election occurs before the expiration of this Part of this Act, but the poll has not taken place before the expiration of this Part of this Act, this Part of this Act shall continue in force for the purposes of the election. [409]

No new parliamentary register of electors under s. 11 of the principal Act (7 Statutes 555) is to be prepared until the year in which the National Registration Act, 1939, expires, or, if it expires after March 31 in any year, until the next year (s. 19 (2), *ante*). The register under s. 11 of the principal Act (as amended by the Representation of the People (Economy Provisions) Act, 1926, s. 9, Schedule III ; 7 Statutes 649, 650) comes into force on October 15 each year. When a new register has been prepared, Part I of the present Act expires on the previous day, that is, October 14.

S. 38 (2) of the Interpretation Act, 1889 (18 Statutes 1005) is applied ; and the enactment is kept in force in respect of an election for which nomination has taken place before expiry.

## PART II

## PARLIAMENTARY WRITS

**26. Writs to be directed to returning officers.**—The writ for a parliamentary election shall be directed to the sheriff, mayor or other officer, who is by virtue of his office the returning officer at the election, designated by the title of his office and not by his name. [410]

Part II of the present Act, which comes into force immediately, makes permanent amendments to the law relating to writs for Parliamentary elections, designed to adapt the present archaic machinery to modern conditions, and to consolidate the existing statutory provisions.

S. 26 makes a formal change, in that writs are to be addressed to the returning officer by the title of his office, not by his name; this obviates any delay due to a change of officer. As to the persons to whom writs are to be conveyed, see s. 27, *post*; and as to the method of conveyance, see s. 29, *post*.

**27. Persons to whom writs are to be conveyed.**—(1) The writ for a parliamentary election shall be conveyed to the sheriff, mayor or other officer, to whom it is directed:

Provided that the writ for a parliamentary election for a constituency as respects which a notice in the prescribed form requesting that writs for parliamentary elections therefor shall be conveyed to the acting returning officer has been sent by the sheriff, mayor or other officer who is the returning officer, or by any predecessor in office of his, to the Clerk of the Crown in Chancery and received by the said Clerk one month or more before the date of the issue of the writ, shall be conveyed to the acting returning officer, unless the notice has been revoked by a further notice in the prescribed form sent and received as aforesaid. [411]

(2) Where under the preceding subsection a writ is required to be conveyed to the sheriff, mayor or other officer, to whom it is directed, that requirement shall be deemed to have been complied with if it is conveyed—

(a) to an under-sheriff, deputy mayor or other person, who is for the time being authorised by or under any enactment to execute the office or discharge the functions of such sheriff, mayor or other officer; or

(b) to the person found in a place recorded in the prescribed manner as the office of such sheriff, mayor or other officer, who is for the time being in charge thereof. [412]

(3) Where under subsection (1) of this section a writ is required to be conveyed to an acting returning officer, that requirement shall be deemed to have been complied with if it is conveyed—

(a) to a person temporarily appointed under subsection (4) of section twelve of the Representation of the People Act, 1918, to act for him; or

(b) to the person found in a place recorded in the prescribed manner as the office of the acting returning officer who is for the time being in charge thereof. [413]

(4) The person to whom the writ for a parliamentary election is conveyed under this Part of this Act shall, in accordance with the form of endorsement in that behalf contained in the Second Schedule to the Ballot Act, 1872, endorse the writ with a statement, signed by him, as to the date on which he received it. [414]

(5) Any notice in force immediately before the commencement of this Act given to the Postmaster-General by a sheriff, and expressing his desire that writs for parliamentary elections for a constituency in respect of which he is the returning officer shall be conveyed to the acting returning officer,

shall have effect for the purposes of the proviso to subsection (1) of this section as if it had been such a notice as is therein mentioned sent by the sheriff to the Clerk of the Crown in Chancery and received by the said Clerk one month before the commencement of this Act. [415]

(6) In relation to parliamentary elections for the City of London the preceding provisions of this section shall have effect subject to the following modifications, that is to say :—

(a) the proviso to subsection (1), and subsections (3) and (5), shall not have effect ; and

(b) for paragraphs (a) and (b) of subsection (2) the following paragraphs shall be substituted :—

“ (a) to either of the sheriffs of the City of London ; or

(b) to the Secondary of the City of London ; or

(c) to the person found in a place recorded in the prescribed manner as the office of the said sheriffs who is for the time being in charge thereof ”. [416]

(7) In relation to university elections the preceding provisions of this section shall have effect subject to the following modifications, that is to say :—

(a) the proviso to subsection (1), and subsections (3) and (5), shall not have effect ; and

(b) for paragraph (a) of subsection (2) the following paragraph shall be substituted :—

“ (a) to a person designated under paragraph 25 of Part I of the Fifth Schedule to the Representation of the People Act, 1918, to act temporarily as returning officer at the election or a person appointed under paragraph 39 of Part II of that Schedule by the University Court of the University of Edinburgh to discharge the duties imposed by that Act on the Vice-Chancellor of that University, as the case may be ”. [417]

(8) In this section the expression “ prescribed ” means prescribed by an Order in Council made under section twenty-nine of this Act and the expressions “ constituency ” and “ university election ” have the same meanings as in the Representation of the People Act, 1918. [418]

See generally, as to Part II of this Act, note to s. 26, *ante*.

Definitions of expressions in this section are contained in sub-s. (8) hereof. The definitions of “ constituency ” and “ university election ” contained in the Representation of the People Act, 1918, are reproduced in the notes to s. 21, *ante*.

The writ is normally conveyed to the returning officer himself, but arrangements may be made by such officer under sub-s. (1) to have the writ conveyed to the acting returning officer. Arrangements already made with the Postmaster General are preserved by sub-s. (5). Instructions under the proviso to sub-s. (1) may not be given by the acting returning officer (see s. 28, *infra*). A writ to be conveyed to an acting returning officer may be conveyed to his temporary deputy or to the person in charge of his office (sub-s. (3)). For s. 12 (4) of the Representation of the People Act, 1918, see 7 Statutes 556. Similarly a writ directed to the sheriff or mayor as returning officer, may be conveyed to an under-sheriff or deputy mayor, or to the person in charge of the sheriff or mayor's office (sub-s. (2)). In either event the date of receipt must be endorsed in the form contained in Schedule I to the Ballot Act, 1872 (7 Statutes 448).

Sub-ss. (6) and (7) adapt the section to the City of London and to university elections respectively.

Until an Order in Council is made under s. 29, regulating the manner in which writs are to be conveyed, the present section has effect as modified by s. 32 and Schedule V, Part I, *post*.

**28. Exclusion of section 30 of 7 & 8 Geo. 5, c. 64.**—Section thirty of the Representation of the People Act, 1918 (which provides for the discharge of the duties of returning officer at a parliamentary election by the registration officer as acting returning officer), shall not apply to any duty imposed on a

returning officer by virtue of the last preceding section or of an Order in Council made under the next succeeding section. [419]

For s. 30 of the Representation of the People Act, 1918, see 7 Statutes 566.

By virtue of this section an acting returning officer may not under the proviso to s. 27 (1), *ante*, direct that writs should be conveyed to him.

**29. Manner in which writs are to be conveyed, and provisions consequential thereon.**—(1) His Majesty may by Order in Council specify the manner in which writs for parliamentary elections are to be conveyed, whether by sending through the post, delivery by an officer appointed by the Lord Chancellor or otherwise, and any such Order in Council may contain different provisions with respect to different classes of writs. [420]

(2) An Order in Council made under this section may—

- (a) prescribe the form of any notice to be sent under the proviso to subsection (1) of section twenty-seven of this Act;
- (b) require the person to whom, on the occasion for the issue of a writ for a parliamentary election arising, the writ would, under subsection (1) of section twenty-seven of this Act, be required to be conveyed, if requested by or on behalf of such authority or officer as may be specified in the Order so to do, to furnish to that authority or officer the address of a place at which the writ may be conveyed to him and, on any change of that address, the new address;
- (c) provide for recording the place the address of which is last furnished under any provision of the Order having effect by virtue of the last preceding paragraph by any person as the office of that person;
- (d) provide for the giving of receipts for writs for parliamentary elections by the persons to whom they are conveyed under section twenty-seven of this Act or who may receive them in the course of the conveyance thereof;
- (e) provide for any incidental or supplementary matters for which it appears to His Majesty to be necessary or expedient for the purposes of the Order to provide. [421]

(3) His Majesty shall not be recommended to make an Order in Council under this section until a draft thereof has lain before each House of Parliament for a period of forty days, and if either House of Parliament within that period resolves that no further proceedings be taken in relation thereto, no further proceedings shall be so taken, but without prejudice to the preparation of a fresh draft.

In reckoning any such period of forty days as aforesaid, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days. [422]

(4) An Order in Council made under this section may be varied or revoked by a subsequent Order of His Majesty in Council. [423]

No Order in Council under this section has been made at the time of going to press (May 1, 1944). Such Order in Council will replace the enactments repealed by Schedule VII, Part II, *post*. Until such Order in Council is made the Parliamentary Writs Act, 1813 (12 Statutes 465), remains in force as modified by s. 32 (1) and Schedule V, Part II, *post*.

**30. Application of Part II to Scotland.** [424]

**31. Application of Part II to Northern Ireland.** [425]

**32. Transitional provisions relating to Part II.**—(1) During the period beginning with the commencement of this Act and ending with the date on which the Order in Council first made as respects Great Britain under

section twenty-nine of this Act comes into operation, section twenty-seven of this Act shall, in its application to Great Britain, have effect subject to the modifications specified in Part I of the Fifth Schedule to this Act, and the provisions contained in Part II of that Schedule shall have effect with respect to the conveyance of writs for parliamentary elections in Great Britain. [426]

(2) [Northern Ireland.] [427]

The provisions of s. 27 relate to the persons to whom writs are to be conveyed; they have effect immediately as modified by Schedule V, Part I. The manner of conveyance will eventually be governed by Order in Council under s. 29. Until such Order in Council is made the manner of conveyance is governed by the Parliamentary Writs Act, 1813 (12 Statutes 465), as modified by Schedule V, Part II. When the Order in Council under s. 29 is made the modifications to s. 27 effected by Schedule V, Part I, cease to have effect, and the Parliamentary Writs Act, 1813, is repealed by s. 33 and Schedule VII, Part II.

**33. Consequential amendments and repeals.**—(1) The Acts specified in the Sixth Schedule to this Act shall have effect subject to the amendments specified in the third column of that Schedule. [428]

(2) The Acts specified in Part I of the Seventh Schedule to this Act are hereby repealed to the extent mentioned in the third column of that Part of that Schedule as from the commencement of this Act, and the Acts specified in Part II of that Schedule are hereby repealed to the extent mentioned in the third column of that Part of that Schedule as from the date of the coming into operation of the Order in Council first made as respects Great Britain under section twenty-nine of this Act. [429]

### PART III

#### MEETING OF PARLIAMENT WHEN PROROGUED

**34. Time for summoning Parliament during prorogation.**—The date appointed for the meeting of parliament by a proclamation issued under section one of the Meeting of Parliament Act, 1797 (which relates to the summoning of parliament when prorogued), may be any day after the date of the proclamation; and accordingly that section as amended by the Meeting of Parliament Act, 1870, shall have effect as if for the words “any day not being less than six days from the date of such proclamation” there were substituted the words “any day after the date of such proclamation”. [430]

Part III of the present Act comes into immediate operation and is of a permanent nature. It amends s. 1 of the Meeting of Parliament Act, 1797 (12 Statutes 453), so as to enable Parliament to be summoned at one day's notice. This is in accordance with modern fast methods of communication and transport, and with the urgency of Parliamentary business.

### PART IV

#### GENERAL

**35. Short title.**—This Act may be cited as the Parliament (Elections and Meeting) Act, 1943. [431]

### SCHEDULES

#### Section 7.

#### FIRST SCHEDULE

##### MODIFICATIONS OF SECTION TWENTY-THREE OF PRINCIPAL ACT

1. Subsection (4), except so much thereof as provides that a ballot paper for the purpose of voting by post shall not be sent to any person unless the address of that person recorded by the registration officer is an address in the United Kingdom, shall not have effect, and in lieu thereof the following provisions shall have effect:—

- (a) so long as an application by any person for his name to be entered in the absent voters list is required to be made as respects a particular election, a person whose name is entered on that list for an election—
- (i) shall, if he has satisfied the registration officer, on an application for the issue of a proxy paper made in accordance with electoral registration regulations at the same time as his application for his name to be entered in the said list, that there is a probability that at the time of the poll he will be at sea or out of the United Kingdom, be entitled to appoint a proxy to vote for him at the election ; and
  - (ii) having appointed a proxy, shall be entitled to vote by proxy at the election ;
- (b) if and when electoral registration regulations provide that an application by any person for his name to be entered in the absent voters list is to be made as respects a prescribed period, a person for whom such an application has been received and accepted by the registration officer—
- (i) shall, if he has satisfied the registration officer, on an application for the issue of a proxy paper made in accordance with electoral registration regulations, that there is a probability that he will be at sea or out of the United Kingdom at the time of the poll at any election initiated during that period or any part thereof specified in the application, be entitled to appoint a proxy to vote for him at any such election ; and
  - (ii) having appointed a proxy shall be entitled to vote by proxy at any such election as aforesaid for which his name may be entered in the civilian residence register or business premises register ;
- (c) no ballot paper shall be sent for the purpose of voting by post to a person who has appointed a proxy by virtue of this paragraph while the appointment is in force ;
- (d) the provisions of the Second Schedule to this Act shall have effect in relation to the appointment and voting of proxies under this paragraph.

2. The power of prescribing forms and making regulations under subsection (6) shall be exercised by electoral registration regulations instead of by Order in Council. [432]

## SECOND SCHEDULE

### PROXIES

### Section 9.

#### *Appointment of proxies*

1. A proxy shall be appointed by means of a proxy paper issued by the registration officer to the person appointed as proxy, on an application made by the voter in accordance with electoral registration regulations.

2. Where an application is made by a voter for the issue of a proxy paper, it shall be the duty of the registration officer, on being satisfied that the voter is entitled to appoint a proxy, to issue a proxy paper to the person appointed as proxy, unless the registration officer is satisfied that that person is not willing to be appointed or cannot lawfully be appointed by virtue of the following provisions of this Schedule.

3. A proxy paper—

- (a) shall cease to be in force if a new proxy paper is issued by the registration officer on a further application by the voter ; and
- (b) subject to the following provisions of this Schedule, may be cancelled by the voter by giving notice in that behalf to the registration officer in the prescribed form and containing the prescribed particulars :

Provided that this paragraph shall not apply to a proxy paper issued on an application made by virtue of sub-paragraph (a) of paragraph 1 of the First Schedule to this Act.

4. Subject to the last foregoing paragraph, a proxy paper shall remain in force—
- (a) in the case of a paper issued on an application made by virtue of sub-paragraph (a) of paragraph 1 of the First Schedule to this Act, until the conclusion or abandonment of the election at which the voter is entitled to vote by proxy ;
  - (b) in the case of a paper issued on an application made by virtue of sub-paragraph (b) of the said paragraph 1, until the expiration of the period as respects which the application is made ; and
  - (c) in the case of a paper issued on the application of a service voter, so long as that voter remains entitled to appoint a proxy by virtue of the same service declaration.

5. An application for the issue of a proxy paper or notice cancelling a proxy paper shall not take effect as respects any election unless received by the registration officer before the initiation thereof :

Provided that this paragraph shall not apply to an application for the issue of a proxy paper made by virtue of sub-paragraph (a) of paragraph 1 of the First Schedule to this Act.

6. Any application made by a service voter for the issue of a proxy paper, or notice given by a service voter cancelling a proxy paper, shall be transmitted to the registration officer concerned in such manner as may be prescribed by national registration regulations, and those regulations may provide for the inclusion in the central index of service voters of such particulars as may be prescribed by those regulations with respect to the appointment of proxies and the cancellation of any such appointment.

7. A person shall not be appointed a proxy unless he is a British subject of full age and not subject to any legal incapacity.

8. A voter shall not appoint more than one person as proxy to vote on his behalf in the same constituency, and in any case not more than two persons.

9. A registration officer shall keep such record (hereafter in this Schedule referred to as the " record of proxies ") as may be prescribed of the persons who have appointed proxies under Part I of this Act and of the persons appointed as proxies, and the said record shall be open to inspection during business hours at such place in the constituency as may be appointed by the registration officer.

10. A registration officer shall, on the application of any person, allow that person to take extracts from, or, in such cases as may be prescribed and on payment of the prescribed fee, supply to that person copies of the record of proxies.

11. Stamp duty shall not be chargeable on any proxy paper issued under this Schedule.

#### *Voting of proxies*

12. A person shall not vote as proxy unless he is a British subject of full age and not subject to any legal incapacity.

13. A person shall not vote as proxy at an election in any constituency on behalf of more than two voters of whom that person is neither the husband, wife, parent, grandparent, brother or sister.

14. The Ballot Act, 1872, and any other Act regulating the holding of parliamentary elections, including any provision imposing penalties in connection with those elections, shall apply to persons voting as proxies under this Act, and to proxy papers issued under this Act and any official mark thereon, as they apply, by virtue of paragraph 9 of the Third Schedule to the principal Act, to persons voting as proxies under that Act and to proxy papers issued under that Act and any official mark thereon.

15. If—

- (a) any person votes or attempts to vote as proxy at an election in any constituency on behalf of more than two voters of whom that person is neither the husband, wife, parent, grandparent, brother or sister ;



- (b) any person votes or attempts to vote as proxy at an election on behalf of another person when he knows, or has reasonable grounds for supposing that the proxy paper appointing him has been cancelled, or that that other person is dead, or that that other person is no longer entitled to vote at that election or to vote by proxy at that election ; or
- (c) any person, not being a British subject, or not being of full age, or being subject to any legal incapacity, votes or attempts to vote as proxy on behalf of another person ; or
- (d) any person, being a person entered in the absent voters list for a constituency and entitled to vote by proxy in that constituency, himself votes or attempts to vote at any parliamentary election in that constituency otherwise than by means of the proxy paper while the proxy paper is in force ;

he shall be guilty of an illegal practice within the meaning of the Corrupt and Illegal Practices Prevention Act, 1883, and the expression "illegal practice" shall be construed accordingly :

Provided that the court before whom a person is convicted under this provision may, if they think it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by section ten of the said Act.

16. A ballot paper shall not be delivered to a person who claims to vote in person as proxy for the purpose of so voting unless he produces the proxy paper to the presiding officer at the polling station or satisfies that officer that he is the person entered in the record of proxies as having been appointed proxy by the person for whom he claims to vote.

17. Such questions may be asked of any person who claims to vote as proxy in person (in addition to those already authorised to be asked) as may be prescribed.

18.—(1) A person may vote by post at an election as proxy for a service voter in the same way as an absent voter voting in his own right, if that person is entitled to vote by post as an absent voter in his own right at that election, and is also entered on the record of proxies as having been appointed proxy by the service voter :

Provided that a person shall not be entitled to vote by post under this paragraph unless he has made an application to the registration officer in that behalf in accordance with electoral registration regulations, and the registration officer is satisfied from the application of his identity with the person so appointed.

(2) Where under this paragraph a person is entitled to vote by post at an election as proxy for a service voter, he shall not be entitled to vote otherwise than by post at the election as proxy for that voter. [433]

### THIRD SCHEDULE

#### Section 21.

#### ADAPTATION OF ENACTMENTS IN RELATION TO PART I

1.—(1) Where an election is initiated on or after the appointed day, the registration officer shall, on the day of the initiation thereof or the next following day, publish a notice specifying the number of persons estimated by him to be qualified for registration as electors in each polling district in the constituency, and for the purposes of the First Schedule to the Corrupt and Illegal Practices Prevention Act, 1883 (which relates to the expenses of candidates) as amended by subsection (1) of section thirty-three of, and the Fourth Schedule to, the principal Act, as respects that election the number so specified in relation to any polling district shall be taken to be the number of electors in that polling district, and the aggregate of those numbers shall be taken to be the number of electors in the constituency, and accordingly paragraph 2 of Part V of the said First Schedule shall not apply.

(2) The registration officer shall publish the said notice by posting up copies thereof in a conspicuous place in his office and in such other places in the constituency as he thinks best adapted for informing the persons concerned.

(3) Electoral registration regulations may provide, as respects any constituency where by reason of the large number of persons qualified to be entered in the business

premises register it appears to the Secretary of State impossible for the registration officer on the initiation of an election to estimate the numbers aforesaid accurately enough for the purposes of this paragraph, that the said notice shall be published within the prescribed time, not being later than the day after the last day for making applications to be included in the said register.

2. Subject to the foregoing paragraph, where a register has been published under Part I of this Act for an election, any reference in any enactment to parliamentary electors, parliamentary voters or persons entitled to vote at parliamentary elections, by whatever name called, shall be construed in relation to any matter occurring after that publication at or in connection with the election, as a reference to persons registered in the register ; and any reference in any enactment to the parliamentary register of electors, the parliamentary register, the register of parliamentary electors or the register of persons entitled to vote at a parliamentary election, by whatever name called, shall be construed accordingly.

3.—(1) Subject to the two foregoing paragraphs, any reference in any enactment to parliamentary electors, parliamentary voters or persons entitled to vote at parliamentary elections, by whatever name called, shall—

(a) in relation to any matter occurring after the appointed day and before the date as from which regulations made under subsection (2) of section twelve of this Act are revoked in pursuance of subsection (3) of that section, be construed as respects any constituency—

(i) in the case of a reference in any of the enactments specified in subparagraph (2) of this paragraph, as a reference to persons claiming or reputed to be qualified to be registered in the register for an election in the constituency (whether or not such an election has been initiated) ;

(ii) for the purpose of determining any person's qualifications to hold any office, or to do any act (other than an act to be done at or in connection with a parliamentary election), as a reference to persons who were registered in the register of parliamentary electors last prepared for the constituency (whether under the principal Act or this Act) ; and

(b) in relation to any matter occurring after the date as from which the said regulations are revoked, be construed as respects any constituency as a reference to persons whose names for the time being appear in an electors list for which provision is required to be made by the said subsection (3) of section twelve of this Act.

(2) The enactments above referred to in this paragraph are :—

(a) section eighteen of the Metropolitan Police Act, 1829 (both as originally enacted and as extended by section nine of the Metropolitan Police Act, 1856), section nine of the County Police Act, 1839, section nine of the County and Borough Police Act, 1856, section seventeen of the Police (Scotland) Act, 1857, and section five of the Metropolitan Police Act, 1860 (which prohibits constables and others from canvassing at certain parliamentary elections) ;

(b) section six of the Election Commissioners Act, 1852, sections two, three and seven of the Corrupt Practices Prevention Act, 1854, section forty-nine of the Representation of the People Act, 1867, subsection (2) of section one, and paragraph (b) of subsection (1) and subsection (3) of section seven, of the Corrupt and Illegal Practices Prevention Act, 1883 (which deal with bribery and corruption at parliamentary elections) ;

(c) rule 7 of the First Schedule to the Ballot Act, 1872, section thirteen of the Parliamentary and Municipal Registration Act, 1878, and subsection (2) of section thirty-one of the principal Act (which relates respectively to the right of electors to obtain nomination forms, to inspect the rate book and to make representations as to the polling districts and polling places in a constituency) ;

(d) subsection (2) of section thirty-three of the principal Act (which relates to the right of a candidate to send an election address post free to each elector).

4. On the publication of a register for any constituency under subsection (1) of section nineteen of this Act, the foregoing provisions of this Schedule shall cease to have effect in relation to that constituency, except as respects any parliamentary election initiated before the expiration of the National Registration Act, 1939, and sections thirty-one and thirty-three of, and paragraphs 1 and 3 of the Sixth Schedule to, the principal Act shall have effect as if the said register were a register prepared under the principal Act.

5. Section thirty-nine of the Corrupt and Illegal Practices Prevention Act, 1883, (which provides for the annual preparation of a corrupt and illegal practices list and for the printing and publication of that list with the register of electors) shall have effect subject to the following modifications—

- (a) the list, instead of being made out annually, shall be made out in any constituency as soon as may be after the initiation of a war election in the constituency and shall be made out in every constituency as soon as may be after the expiration of the National Registration Act, 1939 ;
- (b) the list need not be printed ;
- (c) the list shall be published in the first instance in accordance with electoral registration regulations apart from and before the register prepared under Part I of this Act, and those regulations shall prescribe the time within which claims and objections are to be made thereto ;
- (d) the list shall be finally published with the said register.

6. Section eleven of the Parliamentary and Municipal Registration Act, 1878 (which requires registrars of births and deaths to make returns of deaths to registration officers) shall not have effect.

7. Nothing in subsection (2) of section eight of the National Registration Act, 1939 (which penalises the disclosure of information obtained under that Act) shall apply to the furnishing of information for the purposes of Part I of this Act in accordance with national registration regulations.

8. The foregoing provisions of this Schedule may be varied or supplemented by electoral registration regulations. [434]

*Paragraph 1.*—See 7 Statutes 503.

*Paragraph 3 (2) (a).*—For the sections listed, see 12 Statutes 750, 811, 778, 814, 824, respectively.

*Paragraph 3 (2) (b).*—For the sections listed, see 7 Statutes 393, 399, 401, 405, 466, 468, respectively.

*Paragraph 3 (2) (c).*—For the sections listed, see 7 Statutes 438, 463 566, respectively.

*Paragraph 3 (2) (d).*—See 7 Statutes 567.

*Paragraph 4.*—See 7 Statutes 566, 567, 588.

*Paragraph 5.*—See 7 Statutes 487.

*Paragraph 6.*—See 7 Statutes 462.

*Paragraph 7.*—See 32 Statutes 1110.

#### FOURTH SCHEDULE

Section 24.

MODIFICATIONS OF PART I IN ITS APPLICATION TO NORTHERN IRELAND. [435]

#### FIFTH SCHEDULE

Section 32.

TRANSITIONAL PROVISIONS RELATING TO PART II

#### PART I

*Temporary modifications of section twenty-seven of this Act in relation to Great Britain*

1. During the period specified in subsection (1) of section thirty-two of this Act, section twenty-seven thereof shall, in its application to Great Britain, have effect subject to the modifications contained in the following provisions of this Part of this Schedule.

2. Paragraph (b) of subsection (2) shall have effect—

- (a) in the case of a writ for a parliamentary election, other than a writ directed to the sheriff of Middlesex, with the substitution for the words “a place recorded in the prescribed manner” of the words “a place recorded or notified under section two or section three of the Parliamentary Writs Act, 1813,”; and
- (b) in the case of a writ for a parliamentary election directed to the sheriff of Middlesex, with the omission of the words “a place recorded in the prescribed manner as”.

3. The last of the paragraphs which by subsection (6) are, in relation to parliamentary elections for the City of London, substituted for paragraphs (a) and (b) of subsection (2), and paragraph (b) of subsection (3), shall have effect with the omission of the words “a place recorded in the prescribed manner as”.

## PART II

### *Temporary provisions as to conveyance of parliamentary writs in Great Britain*

4. During the period specified in subsection (1) of section thirty-two of this Act, the requirements imposed by sections one and three of the Parliamentary Writs Act, 1813, as to the delivery of writs for parliamentary elections at the offices of the sheriffs of London and the sheriff of Middlesex, and at the offices of the sheriffs, other persons or proper officers to whom such writs are directed, and as to the giving of memorandums acknowledging the receipt thereof, shall be deemed to have been complied with—

- (a) where, under subsection (1) of section twenty-seven of this Act, any such writ is required to be conveyed to the sheriff, mayor or other officer, to whom it is directed, if it is conveyed—
  - (i) in the case of the writ for a parliamentary election other than an election for the City of London or a university election, under paragraph (a) of subsection (2) of that section (or, in cases to which subsection (2) of section thirty of this Act applies, the paragraph substituted thereby for that paragraph) or under paragraph (b) of subsection (2) of the said section twenty-seven;
  - (ii) in the case of the writ for a parliamentary election for the City of London under any of the paragraphs substituted by subsection (6) of the said section twenty-seven for the said paragraphs (a) and (b);
  - (iii) in the case of the writ for a university election, under the paragraph substituted for paragraph (a) of subsection (2) of the said section twenty-seven by subsection (7) thereof or under paragraph (b) of subsection (2) of that section;

and if the memorandum is given by the person to whom the writ is so conveyed;

- (b) where, under subsection (1) of the said section twenty-seven any such writ is required to be conveyed to an acting returning officer—
  - (i) if it is conveyed to him and if the memorandum is given by him; or
  - (ii) if it is conveyed under paragraph (a) or (b) of subsection (3) of that section and if the memorandum is given by the person to whom the writ is so conveyed.

5. References in this Part of this Schedule to provisions of section twenty-seven of this Act shall be construed as references to those provisions as modified by Part I of this Schedule. [436]

## SIXTH SCHEDULE

Section 33.

## AMENDMENTS OF ENACTMENTS CONSEQUENTIAL ON PART II

Session and Chapter	Short Title	Amendment
35 & 36 Vict. c. 33.	The Ballot Act, 1872 [7 Statutes 427].	In section one, in the last paragraph, for the words "as if the writ had been received by the returning officer on the day on which proof was given to him of such death" there shall be substituted the words "as if the writ had been received on the day on which proof was given to the returning officer of the death"; and in the First Schedule, in rules 1 and 2, for the words "he receives the writ", in each place where those words occur, there shall be substituted the words "the writ is received".
7 & 8 Geo. 5, c. 64.	The Representation of the People Act, 1918 [7 Statutes 548].	In section thirty, after the words "if all his duties" there shall be inserted the words "(other than a duty imposed on him by virtue of section twenty-seven of the Parliament (Elections and Meeting) Act, 1943, or of any Order in Council made under section twenty-nine of that Act)"; in section forty-three, in paragraph (13), for the words "the sheriff substitute at the place at which the writ for the election is appointed to be received" there shall be substituted the words "the senior sheriff substitute of the sherifffdom within which the constituency is wholly situated, or, where the constituency is situated in more than one sherifffdom, of the sherifffdom mentioned in the third column of the Seventh Schedule to this Act"; and in the Fifth Schedule, in Part I, in paragraph 3, for the words "within two days after he receives the writ" there shall be substituted the words "within two days after the day on which the writ is received", and in paragraph 8 the words "by him" shall be omitted, and in Part II, in paragraph 4, for the words "within three days after he receives the writ" there shall be substituted the words "within three days after the day on which the writ is received", and in paragraph 9 the words "by him" shall be omitted.

AMENDMENTS OF ENACTMENTS CONSEQUENTIAL ON PART II—*continued*

Session and Chapter	Short Title	Amendment
10 & 11 Geo. 5, c. 35.	The Representation of the People (No. 2) Act, 1920 [7 Statutes 646].	In section three, in paragraph (a), for the words "the seventh day after the returning officer receives the writ" there shall be substituted the words "the seventh day after the day on which the writ is received"

[437]

## SEVENTH SCHEDULE

Section 33.

## ENACTMENTS REPEALED

## PART I

*Enactments Repealed as from the commencement of this Act*

Session and Chapter	Title or Short Title	Extent of Repeal
7 & 8 Will. 3, c. 25.	An Act for the further regulating Elections of Members to serve in Parliament and for the preventing irregular Proceedings of Sheriffs and other Officers in the electing and returning such Members [7 Statutes 433].	In section one, the words from "And that as well" to the end of the section.
6 Anne, c. 40.	The Union with Scotland (Amendment) Act, 1707 [3 Statutes 178].	In section five, the words "directed to the several sheriffs and stewarts of the respective shires and stewardries".
60 Geo. 3 & 1 Geo. 4, c. 11.	The Parliamentary Elections (Ireland) Act, 1820.	Section five.
4 Geo. 4, c. 55.	The Parliamentary Elections (Ireland) Act, 1823.	Section thirty-three.
16 & 17 Vict. c. 68.	The Parliamentary Elections Act, 1853 [7 Statutes 397].	In section one, the words from "the writ for making" to "places respectively".
17 & 18 Vict. c. 57.	The Returning Officers Act, 1854 [7 Statutes 398].	The whole Act.
25 & 26 Vict. c. 92.	The Elections (Ireland) Act, 1862.	The whole Act.
7 & 8 Geo. 5, c. 64.	The Representation of the People Act, 1918 [7 Statutes 548].	In the Fifth Schedule, in Part I, in paragraph 1, the words from "and the writ" to the end of the paragraph; and in Part II, in paragraph 1, the words from "to whom" to the end of the paragraph.

## PART II

*Enactments Repealed as from the coming into operation of the Order in Council first made as respects Great Britain under Section Twenty-Nine of this Act*

Session and Chapter	Short title	Extent of Repeal
53 Geo. 3, c. 89.	The Parliamentary Writs Act, 1813 [12 Statutes 465].	The whole Act.
37 & 38 Vict. c. 81.	The Great Seal (Offices) Act, 1874 [3 Statutes 392].	In section four, the words from "The powers and duties" to "in writing", and the word "other".
23 & 24 Geo. 5, c. 36.	The Administration of Justice (Miscellaneous Provisions) 1933 [26 Statutes 80].	In the First Schedule, the entry relating to the Parliamentary Writs Act, 1813.

[438]

## THE LOCAL ELECTIONS AND REGISTER OF ELECTORS (TEMPORARY PROVISIONS) ACT, 1943

(7 & 8 Geo. 6, c. 2)

*An Act to continue in force the Local Elections and Register of Electors (Temporary Provisions) Act, 1939, as amended by subsequent Acts and subject to certain further amendments, and to amend section two of the Local Elections and Register of Electors (Temporary Provisions) Act, 1940.* [439]

[16th December 1943.]

**1. Continuance with amendment of principal Act.**—(1) The principal Act shall have effect subject to the amendments set out in the Schedule to this Act, and, as so amended, shall continue in force until the thirty-first day of December, nineteen hundred and forty-four, and no longer, unless Parliament otherwise determines. [440]

(2) In this Act the expression "the principal Act" means the Local Elections and Register of Electors (Temporary Provisions) Act, 1939, as amended by the Local Elections and Register of Electors (Temporary Provisions) Act, 1940, the Local Elections and Register of Electors (Temporary Provisions) Act, 1941, and the Local Elections and Register of Electors (Temporary Provisions) Act, 1942. [441]

The Acts to be cited as "the principal Act" are printed at 32 Statutes 1230; 33 *ibid.* 105; 34 *ibid.* 90; 35 *ibid.* 76.

The amendments effected by Sched. I are mainly consequential upon Part I of the Parliament (Elections and Meeting) Act, 1943 (which may be cited as the Parliamentary Electors (War-Time Registration) Act, 1943).

**2. Superannuation rights of contributory employees.**—(1) For the purposes of section two of the Local Elections and Register of Electors (Temporary Provisions) Act, 1940 (which preserves the superannuation rights under the Local Government Superannuation Act, 1937, or the Local Government Superannuation (Scotland) Act, 1937, of a contributory employee or local Act contributor who by reason of the principal Act being in force is not required to do work as returning officer at a local election, or in connection



with the preparation of a register of electors or a jurors book), the question whether a person is not required to do any such work by reason only of the principal Act being in force shall be determined as if the Parliamentary Electors (War-Time Registration) Act, 1943 (hereafter in this section referred to as the Act of 1943) had not been passed and the amendments set out in the Schedule to this Act had not been made in the principal Act. [442]

(2) A person otherwise entitled under the said section two to make contributions to a superannuation fund in respect of any year shall not be so entitled if he receives in respect of work done in that year by him under the Act of 1943 (otherwise than as part of an inclusive salary) remuneration greater than that in respect of which he would be entitled to make the contribution. [443]

(3) Where a person makes a contribution under the said section two in respect of any year, he shall not be required or entitled to make in respect of that year any contribution under the Local Government Superannuation Act, 1937, or the Local Government Superannuation (Scotland) Act, 1937, in respect of the remuneration received by him (otherwise than as part of an inclusive salary) in respect of work done by him in that year under the Act of 1943, and the said remuneration shall be disregarded for the purpose of computing in accordance with the provisions of section eight of either of the said Acts of 1937 his average remuneration (if he is a contributory employee) or of calculating his superannuation allowance under a local Act scheme (if he is a local Act contributor). [444]

(4) Expressions used in this section have the same meaning as in the said section two. [445]

This section makes clear the position in regard to superannuation rights in view of the changes in the duties of returning officers effected by Part I of the Parliament (Elections and Meeting) Act, 1943 (the Parliamentary Electors (War-Time Registration) Act, 1943).

The question as to whether such a person is required to do work is normally to be determined as if the Act of 1943 has not been passed (sub-s. (1)), and superannuation payments will be made under s. 2 of the Local Elections and Register of Elections (Temporary Provisions) Act, 1940 (33 Statutes 105). Where however the remuneration for duties performed under the Act of 1943 exceeds the remuneration in respect of which he is entitled to make contributions under the Act of 1940, then the Act of 1940 does not apply, but contributions are made under s. 8 of the Local Government Superannuation Act, 1937 (30 Statutes 394) (sub-s. (2)). Where a contribution is paid under the Act of 1940, any remuneration paid for duties under the Act of 1943 is to be disregarded in the contributions or average remuneration for the purposes of the Local Government Superannuation Act, 1937.

**3. Short title.**—This Act may be cited as the Local Elections and Register of Electors (Temporary Provisions) Act, 1943. [446]

## SCHEDULE

### Section 1.

#### AMENDMENTS OF PRINCIPAL ACT

Such of the provisions of the principal Act as are specified in the first column of this Schedule shall have effect subject to the amendments specified in the second column of this Schedule.

Section.	Amendment.
Section two .. ..	Subsection (3) shall be repealed in so far as it relates to the parliamentary register of electors, so, however, that the register therein referred to shall remain in force for the purpose of a parliamentary election initiated before the appointed day. Subsection (4) shall be repealed.
Section three .. ..	In subsection (1) the words "or a jurors book", and in subsection (2) the words "section eleven of the Parliamentary and Municipal Registration Act, 1878, and", shall be repealed.

## Section.

## Amendment.

Section six . . . . After paragraph (c) of subsection (1) there shall be inserted the following paragraph :—

“(ce) alter the apportionment of the councillors of an urban district council among the wards”.

Section eight . . . . [Scotland.]

Section nine . . . . [Northern Ireland.]

In this Schedule the expression “election initiated before the appointed day” has the same meaning as in the Parliamentary Electors (War-Time Registration) Act, 1943. [447]

The amendments to ss. 2 and 3 of the principal Act (the Local Elections and Register of Electors (Temporary Provisions) Act, 1939) (32 Statutes 1231), are consequential upon s. 18 of the Parliamentary Electors (War-Time Registration) Act, 1943 (under which title is cited Part I of the Parliament (Elections and Meeting) Act, 1943). As to the meaning of the expression “election initiated before the appointed day”, see ss. 1 and 2 of the last-named enactment.

The amendment to s. 6 of the principal Act remedies an omission.

## ORDERS, CIRCULARS AND MEMORANDA

### THE ELECTORAL REGISTRATION REGULATIONS, 1943

*S. R. & O., 1943, No. 1728*

*December 8, 1943 \**

In pursuance of the powers conferred upon me by the Parliamentary Electors (War-time Registration) Act, 1943, I hereby make the following regulations :—

#### PART I

##### APPLICATION OF ACT OF 1943 TO WAR WORKERS

1.—(1) Subject to the provisions of the Act of 1943 and these regulations, a person, being on the qualifying date a British subject of full age and not subject to any legal incapacity, shall be entitled to be registered in the service register for an election in any constituency, if on that date that person—

(a) is registered in the National Register as a person engaged in war work abroad ; and

(b) but for his war work would be residing at a place in the constituency.

A person who is for the time being registered in the National Register as a person engaged in war work abroad is hereafter in these regulations referred to as a “war worker”.

(2) No person shall be entitled by virtue of this regulation to be registered in the service register for an election in any constituency unless his war worker's declaration has been transmitted to the registration officer for that constituency in accordance with national registration regulations and received by that officer on or before the qualifying date ; and subsections (5) and (6) of section eight of the Act of 1943 shall apply in relation to the registration of a war worker by virtue of this regulation as if—

(a) for the reference to the place at which a person is, or but for his service as a member of the forces or a seaman would be, residing there were substituted a reference to the place at which he would be residing but for his war work ;

\* These Regulations having lain before both Houses of Parliament in accordance with section 20 of the Parliament (Elections and Meeting) Act, 1943, were approved by resolution on December 16, 1943.

(b) for any other reference to a member of the forces or a seaman, and for any reference to a service declaration, there were respectively substituted a reference to a war worker, and to a war worker's declaration; and

(c) paragraph (c) of the said subsection (6) were omitted.

(3) In this regulation, the expression "war work" means, in relation to any person, the work by virtue of which he is registered in the National Register as a person engaged in war work abroad. [448]

2. A person shall not be entitled to be registered in the civilian residence register for an election in any constituency, if, on the qualifying date, that person is a war worker, but a person ceasing to be a war worker shall be entitled to be so registered without any period of qualifying residence; and accordingly in section five of the Act of 1943—

(a) any reference to becoming registered in the National Register on ceasing to be a member of the forces or a seaman shall include a reference to ceasing to be registered in that Register as a person engaged in war work abroad;

(b) the reference to being removed from the National Register on becoming exempt from registration therein by virtue of national registration regulations shall include a reference to being registered in that Register as a person engaged as aforesaid;

(c) the reference to being registered in the National Register as usually resident outside the United Kingdom shall include a reference to being registered in that Register as a person engaged in war work abroad. [449]

3. A war worker may vote either in person or by proxy and accordingly sections (1) and (2) of section nine of, and the Second Schedule to, the Act of 1943 shall have effect as if any reference to a service declaration included a reference to a war worker's declaration and (except in the phrase "central index of service voters") the expression "service voter" were construed accordingly. [450]

4. Arrangements shall be made by each government department concerned for securing that (so far as circumstances permit)—

(a) every person appearing to be qualified to be registered in the National Register as a person engaged in war work abroad shall have an effective opportunity of becoming so registered in accordance with national registration regulations;

(b) every war worker shall have an effective opportunity of exercising from time to time as occasion may require the rights conferred on him by virtue of these regulations in relation to the appointment of a proxy;

and that every person who is qualified to be registered as aforesaid or is a war worker shall receive such instructions as to the effect of the Act of 1943 and any regulations made under or by virtue of that Act, and such other assistance, as may be reasonably sufficient in connection with the exercise of the rights conferred on him by that Act or any such regulations as aforesaid. [451]

5. Section eighteen of the Act of 1943 shall apply to appointments of a proxy to vote at a university election for war workers subject to the following modifications:—

(a) for any reference to a member of the forces or a seaman, or to a service voter, there shall be substituted a reference to a war worker;

- (b) the words in subsection (2) from “ and where such a form ” to the end of the subsection and subsection (3) shall not apply, but instead the following subsection shall have effect, that is to say :—

“(3) Where such a form purporting to be signed by any person is accompanied by such a certificate as is referred to in subsection (2) of section eleven of this Act, purporting to relate to that person, and bearing the same date as the application, it shall be presumed, until the contrary is proved, that the said person was a war worker at the time of the application.” [452]

## PART II

### SERVICE DECLARATIONS, ETC.

6.—(1) A service declaration made by a member of the forces shall be attested by a commissioned officer in the armed forces of the Crown.

(2) A service declaration made by a seaman shall be attested either—

- (a) by the master of the ship (being a British ship registered in the United Kingdom) in which he is serving at the time of making the declaration ; or
- (b) by a superintendent within the meaning of the Merchant Shipping Act, 1894 ; or
- (c) by a British consular officer. [453]

7. The forms set out or described in the Schedule to these regulations, or forms to the like effect, shall be used for the purposes respectively mentioned in relation thereto in that Schedule, and are the forms prescribed for these purposes. [454]

8.—(1) No declaration or application for which a form is prescribed by these regulations shall be of any effect unless it gives, with reasonable clearness, the particulars and other information required by that form.

(2) No such declaration or application shall be invalid by reason only of the fact that it gives any such particulars or information in a manner other than that indicated by the form. [455]

## PART III

### MISCELLANEOUS

9. Where a registration officer is the clerk of a county council, any sums payable to him for his personal remuneration as registration officer under section fourteen of the Act of 1943 shall be dealt with under subsection (2) of section ninety-nine of the Local Government Act, 1933 (which provides among other things that the clerk of a county council shall account to the county fund for all fees and costs payable to him except fees and costs excluded when his salary is determined), in the same way as, in his case, any sums payable for his personal remuneration under section fifteen of the Representation of the People Act, 1918, would be dealt with under the said subsection (2). [456]

10.—(1) The Interpretation Act, 1889, shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

(2) In these regulations, unless the context otherwise requires—

“ the Act of 1943 ” means the Parliamentary Electors (War-Time Registration) Act, 1943 ;

“national registration regulations” means national registration regulations, as defined by the Act of 1943, made by virtue of that Act;

“war worker’s declaration” means a declaration made by any person by virtue of which he is for the time being a war worker. [457]

11.—(1) These regulations may be cited as the Electoral Registration Regulations, 1943.

(2) These regulations shall come into force on the eighteenth day of December, nineteen hundred and forty-three. [458]

\* \* \* \* \*

### SCHEDULE

#### FORM A : COMBINED FORM OF SERVICE DECLARATION AND APPLICATION FOR ISSUE OF PROXY PAPER BY MEMBER OF FORCES

##### *Front*

#### PART 1.

##### ELECTORAL REGISTRATION (ARMED FORCES)

(If you are a British subject and declare to an address in Great Britain or Northern Ireland, these particulars are to enable you to vote, if or when you are 21 or over, at a parliamentary election for the constituency containing the address declared to.)

I HEREBY DECLARE THAT I :—

Surname ..... Service.....  
(BLOCK CAPITALS)

Christian Names.....

Service No. (if any) ..... Rank or Rating.....

Am a British subject, and

\*Am }  
\*Am not } 21 years of age or over.

\*(If under 21 years of age) was born on .....

Day	Month	Year
:	:	:

and reside or but for my service would reside at :—

(Full postal address) .....  
.....

I hereby cancel any previous declaration made by me.

Signed ..... Date.....

Signature of Attesting Officer .....

Rank..... Ship, Regt. or Unit.....

\* Cross out inapplicable words.

*Back*

## PART 2.

## PROXY APPOINTMENT

(If you desire to appoint a proxy to vote for you in your absence, fill in this form.)

I HEREBY CANCEL ANY PREVIOUS PROXY APPOINTMENT MADE BY  
ME AND APPOINT AS MY PROXY :—

Names of First Choice .....  
(BLOCK CAPITALS)

Postal Address of First Choice.....

Relationship, if any, of First Choice to Elector .....

OR IF HE OR SHE IS UNABLE OR UNWILLING TO ACT

Names of Second Choice .....  
(BLOCK CAPITALS)

Postal Address of Second Choice.....

Relationship, if any, of Second Choice to Elector.....

Signed.....

FORM B : COMBINED FORM OF SERVICE DECLARATION AND APPLICATION FOR ISSUE  
OF PROXY PAPER BY SEAMAN.

*Front*

## PART 1.

## ELECTORAL REGISTRATION (SEAMEN)

(If you are a British subject and declare to an address in Great Britain or Northern Ireland, these particulars are to enable you to vote, if or when you are 21 or over, at a parliamentary election for the constituency containing the address declared to.)

I HEREBY DECLARE THAT I :—

Surname .....  
(BLOCK CAPITALS)

Christian Names.....

Dis. A. No. .... Rank or Rating.....

Am a British subject, and

\*Am }  
\*Am not } 21 years of age or over.

\*(If under 21 years of age) born on.....

Day Month Year

: :

and reside or but for my service would reside at :—

(Full postal address) .....

I hereby cancel any previous declaration made by me.

Signed..... Date.....

Signature of Person Attesting .....

Qualification.....

\* Cross out inapplicable words.

*Back*

*The back of this form shall be the same as the back of Form A.*

**FORMS C & D : SEPARATE FORMS OF SERVICE DECLARATION.**

*The form to be used by a member of the forces or a seaman for making a service declaration without at the same time applying for the issue of a proxy paper shall be the front of Form A or Form B, as the case may be.*

**FORMS E & F : SEPARATE FORMS OF APPLICATION FOR ISSUE OF PROXY PAPER BY MEMBER OF FORCES OR SEAMAN.**

*The form to be used by a member of the forces or a seaman for making an application for the issue of a proxy paper without at the same time making a service declaration shall be Form A or Form B, as the case may be, that part of the front after the space for the applicant's rank or rating being disregarded.*

**FORM G : FORM OF APPLICATION FOR ISSUE OF A PROXY PAPER BY WAR WORKER.**

*This form shall be the same as the back of Form A. The application may be combined in the same document with a war worker's declaration, but where not so combined, shall also state the war worker's full name and national registration number, and the address given as his residence in his war worker's declaration or the constituency for which the application is made. [459]*

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## **THE NATIONAL REGISTRATION (CIVILIAN RESIDENCE REGISTER) REGULATIONS, 1943**

*S. R. & O., 1943, No. 1775*

*December 24, 1943*

103730.

In exercise of the powers conferred on us by the National Registration Act, 1939, and by the Parliamentary Electors (War-time Registration) Act, 1943, and of all other powers enabling us in that behalf, acting jointly, we hereby make the following regulations :—

1.—(1) These regulations may be cited as the National Registration (Civilian Residence Register) Regulations, 1943, and shall come into operation on the date hereof.

(2) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

(3) In these regulations, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say :—

“ the Act of 1918 ” means the Representation of the People Act, 1918, as amended by any subsequent enactment or Order in Council ;

“ the appointed day ” means the day appointed by the Secretary of State for the purposes of the Parliamentary Electors (War-time Registration) Act, 1943 ;

“ electoral registration area ” means a registration area for the purposes of the Act of 1918 and, in relation to an electoral registration officer, means the area for which he is the electoral registration officer ;

“ electoral registration officer ” means a registration officer for the purposes of the Act of 1918 and includes his duly appointed deputy for electoral registration purposes ;



"the proper officer" means, in relation to the local national registration officer for a local area in England, the town clerk of the borough, or the clerk of the urban or rural district council, whose district forms the local area ;

"local area" means the district of a borough or an urban or rural district ;

"departure address" means, in relation to a registered person in respect of whom a notice of removal has been given, his registered address immediately prior to the giving of the notice of removal ;

"the Register" and "Registrar-General" have the same respective meanings as in the National Registration Act, 1939 ;

"central national registration officer" means an officer appointed under regulation 16 of the National Registration Regulations, 1939, and "local national registration officer" means an officer appointed under regulation 17 of those regulations ; and

"registered address" has the meaning assigned to it by regulation 2 of the National Registration Amendment Regulations, 1940. [460]

2. For the purpose of the provision to the electoral registration officer for an electoral registration area of as complete and accurate a record as possible of the names and places of residence of all persons, not being persons who are for the time being registered as persons engaged in war work abroad or as usually resident outside the United Kingdom, who are registered as residing in the area on the date on which the order appointing the appointed day is made and who are on that date British subjects who have attained the age of twenty-one years the following provisions shall have effect, that is to say :—

(1) It shall be the duty, in the case of a local area in Great Britain, of the local national registration officer for that area, and, in the case of a local area in Northern Ireland, of the central national registration officer for Northern Ireland, to furnish from time to time, in accordance with instructions given by the Registrar-General, particulars of the names and registered addresses of, and of any relevant changes of circumstances respecting, all persons, other than persons who are for the time being registered as persons engaged in war work abroad or as usually resident outside the United Kingdom, from time to time registered as residing in the local area and appearing, from the particulars recorded in the Register in respect of them, on that date to be British subjects and to have attained the said age.

(2) The local national registration officer for a local area in England shall request the proper officer to state, and the proper officer upon such request shall inform him in writing, whether or not the local area forms part or more than one electoral registration area, and particulars furnished in pursuance of paragraph (1) of this regulation by a local national registration officer for a local area in England shall be sent—

(a) in the case of a local area which forms part of more than one electoral registration area, to the proper officer ;

(b) in the case of a local area which does not form part of more than one electoral registration area—

(i) if and so long as the electoral registration officer for the area so requests in writing, to the proper officer ;

(ii) in the absence or upon the lapse of any such request, to the electoral registration officer.

(3) Particulars furnished in pursuance of paragraph (1) of this regulation by the local national registration officer for a local area in

Scotland shall be sent to the electoral registration officer for the corresponding electoral registration area.

(4) Particulars furnished by the central national registration officer for Northern Ireland in pursuance of paragraph (1) of this regulation shall be sent to the town clerk of the county borough or borough or to the clerk of the council of the urban district or, in the case of a rural district, to the secretary of the council of the county in which the registered address of the person is situate and also, in the case of a removal from one local area to another, to the town clerk of the county borough or borough or to the clerk of the council of the urban district or, as the case may be, the secretary of the council of the county in which the departure address of the person is situate. [461]

3. An electoral registration officer on receiving any particulars sent in pursuance of these regulations relating to a person whose registered address or, as the case may be, whose departure address is not situate within his electoral registration area shall forthwith send the particulars to the electoral registration officer for the electoral registration area within which he believes that address to be situate. [462]

4. Any document which is required by these regulations to be sent to any officer may be sent to him by post addressed to him at his office. [463]

5. In their application to Scotland these regulations shall have effect with the substitution for the definition of the expression "local area" in paragraph (3) of regulation 1 of the following definition—

"'local area' means the area of a county or of a large burgh".

[464]

\* \* \* \* \*

## ELECTRICITY SUPPLY

ORDERS, CIRCULARS AND MEMORANDA :			PAGE	CASES :—			PAGE
Defence (General) Regulations,	Regulation 60CB	—	140	Yorkshire Electric Power Co. v.	Central Electricity Board, [1943]	2 All E. R. 651	143
Pontypridd Urban District Council	(Abstraction of Water) Order,	1943	141				

### ORDERS, CIRCULARS AND MEMORANDA

#### ORDER ADDING REGULATION 60CB TO THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1943, No. 914*

*June 30, 1943*

1. After Regulation sixty CA of the Defence (General) Regulations, 1939, there shall be inserted the following Regulation :—

"60CB.—(1) During the continuance in force of this paragraph, the certification of electricity meters for the purposes of and in the manner provided for by the Schedule of 1899 shall be suspended.

(2) Any meter installed during the continuance in force of paragraph (1) of this Regulation by authorised undertakers, being a meter of some construction and pattern approved under section fifty of the Schedule of 1899, shall be treated for the purposes of the Schedule of 1899 as an appropriate meter duly certified.

(3) In this Regulation the expression 'the Schedule of 1899' means the Schedule to the Electric Lighting (Clauses) Act, 1899 (as amended by any subsequent Act), as incorporated with any Act or order passed or confirmed whether before or after the coming into force of this Regulation, and the expression 'installed', in relation to a meter, includes the reinstallation of a meter which has been disconnected and removed.

(4) Any reference in this Regulation to the Schedule of 1899 or to any provision of that Schedule shall be construed as including a reference to any corresponding provision of any Act or order which does not incorporate that Schedule or that provision thereof, as the case may be." [465]

2. This Order shall come into operation on the first day of August, 1943. [466]

\* \* \* \* \*

*Note as to S. R. & O., 1943, No. 914.—Under the Schedule to the Electric Lighting (Clauses) Act, 1899, as amended by the Electric Lighting Act, 1909, the value of the supply of electrical energy given by undertakers to consumers must be ascertained by appropriate meters duly certified to be capable of ascertaining that value within such limits of error as may be allowed by the Electricity Commissioners and to be of some construction and pattern approved under s. 50 of that Schedule. Certification is at present carried out by meter examiners appointed by the Electricity Commissioners under the Electricity Supply (Meters) Act, 1936. This certification will, under the new Regulation, be suspended though meters will still have to be of a construction and pattern approved under s. 50 of the Schedule, while differences as to the correctness of meters will continue to be determined by meter examiners or, in the case of the administrative county of London, by electrical inspectors appointed by the L.C.C. or the Common Council of the City of London.*

## THE PONTYPRIDD URBAN DISTRICT COUNCIL (ABSTRACTION OF WATER) ORDER, 1943

S. R. & O., 1943, No. 328

February 25, 1943

The Minister of Fuel and Power (in this Order referred to as "the Minister") on the representation of the Electricity Commissioners in pursuance of Section 15 of the Electricity (Supply) Act, 1919, hereby orders as follows:—

1. The Urban District Council of Pontypridd (in this Order referred to as "the Council") may abstract water from the River Taff for purposes of their electricity undertaking. [467]

2. The Council may do all such acts as may be necessary for the purpose of enabling them to utilise and return to the River Taff the water abstracted as aforesaid. [468]

3. The Council shall not erect any works, apparatus or equipment in connection with such utilisation and return to the River Taff of water abstracted as aforesaid, except in accordance with plans and drawings previously submitted to and approved in writing by the Commissioners. [469]

4. All water abstracted as aforesaid and not consumed, and in no case less than ninety-five per centum of the water so abstracted, shall be returned to the River Taff in a condition not less pure than when it was abstracted. [470]

5. The temperature of the water returned as aforesaid shall not at any time exceed by more than twenty degrees Fahrenheit the temperature of any water that is being abstracted as aforesaid at the time of such return. [471]

6.—(1) The Council shall cause to be kept :—

(a) daily records of the quantity of water abstracted from and returned to the River Taff as aforesaid, and

(b) hourly records of the Fahrenheit temperature of the water so abstracted and returned.

(2) Such records as aforesaid shall be in such form, if any, as the Minister may from time to time direct. [472]

7. The Council and any person employed by the Council shall, if requested so to do by or on behalf of the Minister :—

(a) produce to such person, or to a person of such class or description, as may be mentioned in the request and at or within the time and at the place (if any) mentioned in the request, such records as are referred to in Article 6 of this Order, or such other documents relating to the keeping of these records as may be mentioned or described in the request ; and

(b) furnish to such person or to a person of such class or description, as may be mentioned in the request, and at or within the time and at the place (if any) mentioned in the request and in or on such form (if any) as may be prescribed by the request, copies of such records, or such information relating to such records, as may be mentioned or described in the request. [473]

8.—(1) Every record kept in pursuance of Article 6 of this Order shall, except in so far as the Minister may otherwise direct, be preserved by the Council for a period of five years.

(2) Such period as aforesaid shall be reckoned from the date on which the entry or, if there is more than one entry, the last entry was made in such record. [474]

9. If the Council make default in complying with any of the provisions of Articles 3 to 8, both inclusive, of this Order, they shall be liable on conviction to a penalty not exceeding ten pounds for every such default and to a further penalty of ten pounds for every day during which the default continues, and such penalties shall be recovered in a summary manner under the Summary Jurisdiction Acts provided that the recovery of a penalty under this Order shall not affect the liability, if any, of the Council to make compensation in respect of any damage or injury that may have been caused by reason of the default. [475]

10. The Interpretation Act, 1889, shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

11. This Order shall come into force on the 1st day of March, 1943, and may be cited as the Pontypridd Urban District Council (Abstraction of Water) Order, 1943. [476]

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## CASES

*Electricity—Electricity supplied to undertaking—Calculation of price—“Share and loan capital”—Electricity Supply Act, 1926 (c. 51), Sched. II, para. (e) (ii).*

The company were the owners of a selected station (within the meaning of the Electricity (Supply) Act, 1926), which generated electricity. The price to be paid for electricity supplied by a selected station to the Central Electricity Board was to be calculated in accordance with Sched. II of the Act, and one of the items, set out in para. (e) (ii), to be taken into consideration in that calculation was “the average rate of dividends and interest paid by the company on their share and loan capital during the preceding year.” The board contended that the words “share and loan capital” meant moneys raised by means of the issue of shares or loans, account being taken of any premium or discount received or allowed by the company on the issue thereof; whilst the company argued that the words meant the nominal amount of the share and loan capital of the company :—

*Held* : upon the true construction of Sched. II, para. (e) (ii) of the Act, the words “share and loan capital” meant the nominal amount of the share and loan capital of the company.—*YORKSHIRE ELECTRIC POWER CO. v. CENTRAL ELECTRICITY BOARD*, [1943] 2 All E. R. 651; *sub nom. CENTRAL ELECTRICITY BOARD v. YORKSHIRE ELECTRIC POWER CO.*, 60 T. L. R. 54. [477]

## EXPLOSIVES

*See REGULATED INDUSTRIES, TRADES AND BUSINESSES.*

## FINANCE

CASES :—

A.-G. v. Leicester Corpn., [1943] 1 All E. R. 146 - - - - - PAGE 143

## CASES

*Local Government—Expenditure—Purchase of undertaking of omnibus company—Payment for goodwill—Ultra vires—Payment out of reserve fund of local authority's undertaking—Local Government Act, 1933 (c. 51), ss. 185–187—Leicester Corporation Act, 1930, s. 45 (2) (b).*

The defendant corporation had agreed to purchase the business and goodwill of a certain omnibus company and to pay the purchase price out of the corporation's reserve fund. The Birmingham and Midland Motor Omnibus Co., who operated the same route opposed the agreement on the ground that the agreement was illegal and *ultra vires* the powers of the corporation and contended that the corporation had no power to apply any of its reserve fund, general rate fund or other moneys for the purpose of the said purchase; and they asked for declarations and injunctions accordingly :—

*Held* : (i) since the passing of the Local Government Act, 1933, the agreement was not by sects. 185–187 thereof, illegal or *ultra vires* the powers of the corporation.

(ii) such an agreement could only be financed from the general rate, and as the agreement in question was to be financed from the reserve fund the plaintiffs were entitled to a declaration prohibiting the defendants from using the reserve fund for the purchase of the business.

(iii) under the Leicester Corporation Act, 1930, s. 47, the reserve fund could only be applied for this purpose if it were shown that such application was for the benefit of the corporation's omnibus undertaking and the evidence did not prove this.—*A.-G. v. LEICESTER CORPN.*, [1943] Ch. 86; [1943] 1 All E. R. 146; 112 L. J. Ch. 97; 168 L. T. 229; 107 J. P. 65; 59 T. L. R. 118; 87 Sol. Jo. 57; 41 L. G. R. 82. [478]

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## ORDERS, CIRCULARS AND MEMORANDA

### THE NATIONAL FIRE SERVICE (GENERAL) REGULATIONS, 1943

*S.R. & O., 1943, No. 93*

*January 16, 1943*

In pursuance of the powers conferred upon me by the Fire Services (Emergency Provisions) Act, 1941, I hereby make the following Regulations:—

1. On the coming into force of these Regulations the post of Chief Fire Commander for the London Area and the London Headquarters Formation shall be abolished, and accordingly there shall be substituted for the Fifth Schedule to the National Fire Service (General) Regulations, 1941, the following Schedule:—

#### “FIFTH SCHEDULE

##### APPLICATION OF REGULATIONS TO LONDON AREA

1.—(1) In addition to the five Fire Forces in the London Area there shall be the River Thames Formation to serve on and in connection with the fire-fighting craft on the river Thames, and the said Formation shall be in the charge of an officer appointed for the purpose.

(2) These Regulations shall apply in relation to the River Thames Formation as if it were one of the London Fire Forces and as if the officer in charge of the Formation (whatever his rank) were the Fire Force Commander in command of that Force.

2. The reference in the proviso to Regulation 8 (1) of these Regulations to a part-time fireman's own Fire Area shall, in relation to a part-time fireman in any of the London Fire Forces, have effect as if it were a reference to the whole London Area." [479]

2. Any member (whether whole-time or part-time) of the National Fire Service who, immediately before the coming into force of these Regulations, was a member of the London Headquarters Formation shall, by virtue of these Regulations and without more, become a member of the staff appointed to assist the Regional Commissioners for Region 5 in the exercise of their functions in relation to the National Fire Service. [480]

3.—(1) These Regulations may be cited as the National Fire Service (General) Regulations, 1943.

(2) These Regulations shall come into force on the eighteenth day of January, 1943. [481]

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## THE NATIONAL FIRE SERVICE (GENERAL) (NO. 2) REGULATIONS, 1943

*S. R. & O., 1943, No. 461*

*March 22, 1943*

In pursuance of the powers conferred upon me by the Fire Services (Emergency Provisions) Act, 1941, I hereby make the following Regulations :—

1.—(1) For the proviso to paragraph (2) of Regulation 7 of the National Fire Service (General) Regulations, 1941 (which prevents firemen being reduced in rank otherwise than with their consent or during their periods of probation or on conviction of criminal offences), there shall be substituted the following proviso :—

“ Provided that a member of a Fire Force shall not be reduced from any rank under this paragraph by the Regional Commissioner without the concurrence of the Secretary of State or by the Fire Force Commander without the concurrence of the Regional Commissioner except with his own consent or during his period of probation in that rank or on conviction of a criminal offence (including an offence against Regulation 8 (2) of these Regulations).”

(2) At the end of the said paragraph (2) there shall be added the words “ but in calculating a fireman's period of probation in any rank there shall be disregarded any part of his service therein during which he is certified by any such person as aforesaid to have been employed on duties other than the normal duties of that rank.” [482]

2. In sub-paragraph (1) of paragraph 1 of the Third Schedule to the said Regulations for the entries in the scale of pay relating to a Senior Company Officer and Company Officer there shall be substituted the following entries :—

	£	s.	d.
“ Senior Company Officer .. ..	425	0	0 per annum.
Company officer .. ..	375	0	0 „ „ ”

[483]

3. These Regulations may be cited as the National Fire Service (General) (No. 2) Regulations, 1943. [484]

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## THE NATIONAL FIRE SERVICE (GENERAL) (NO. 3) REGULATIONS, 1943

*S. R. & O., 1943, No. 1012*

*July 19, 1943*

In pursuance of the powers conferred upon me by the Fire Services (Emergency Provisions) Act, 1941, I hereby make the following Regulations :—

1. For paragraphs (2), (2A) and (3) of Regulation 7 of the National Fire Service (General) Regulations, 1941, there shall be substituted the following paragraphs :—

“(2) A fireman may be promoted—

- (a) whether or not he is a member of a Fire Force, to any rank by the Secretary of State ;
- (b) if he is a member of a Fire Force—
  - (i) to be a Column Officer, Assistant Area Officer or Group Officer, by the Regional Commissioner ; and
  - (ii) to any rank below that of Column Officer or Group Officer, by the Fire Force Commander ; and
- (c) if he is not a member of a Fire Force, to such rank as may from time to time be designated by the Secretary of State in relation to any particular case or class of cases by such person as may be so designated,

and any power conferred by this paragraph to promote to any rank includes a power to reduce from that rank to any lower rank :

Provided that a member of a Fire Force shall not be reduced from any rank under this paragraph by the Regional Commissioner without the concurrence of the Secretary of State or by the Fire Force Commander without the concurrence of the Regional Commissioner except with his own consent or during his period of probation in that rank or on conviction of a criminal offence (including an offence against Regulation 8 (2) of these Regulations).

In this paragraph ‘period of probation’ means, in relation to a fireman’s service in any rank, the first six months of that service together with such further period or periods (not exceeding in all a further twelve months) as may at any time before the end of his period of probation be added thereto by a direction (which may be revoked by a subsequent direction) of any person having for the time being power under this paragraph to reduce him from that rank, but in calculating a fireman’s period of probation in any rank there shall be disregarded any part of his service therein during which he is certified by any such person as aforesaid to have been employed on duties other than the normal duties of that rank.

(2A) The promotion of a fireman to any rank may be expressed to be temporary only, and, if expressed to be temporary, may (without prejudice to any power conferred by these Regulations to reduce him from that rank) be cancelled at any time by any person having power to promote firemen to that rank under paragraph (2) of this Regulation ; and for the purposes of the said paragraph (2) a fireman’s period of probation in any rank shall not include service in that rank by virtue of a temporary promotion under this paragraph, but any such service shall be disregarded in calculating the said period.

(3) Any member of the National Fire Service may be discharged by

the Secretary of State, and firemen in any Fire Force may also be discharged—

- (a) in the case of Column Officers, Assistant Area Officers and Group Officers, by the Regional Commissioner ; and
- (b) in the case of ranks below Column Officer or Group Officer, by the Fire Force Commander :

Provided that—

- (i) a member of a Fire Force who has not attained the age of sixty years shall not be discharged by the Regional Commissioner under sub-paragraph (a) of this paragraph without the concurrence of the Secretary of State, or by the Fire Force Commander under sub-paragraph (b) of this paragraph without the concurrence of the Regional Commissioner, except with his own consent, or, in the case of a member other than a member transferred to the National Fire Service by virtue of these Regulations, during his period of probation ; and
- (ii) nothing in this paragraph affects the provisions of the Second Schedule to these Regulations relating to dismissal for disciplinary offences.

In this paragraph 'period of probation' means, in relation to any fireman, the first six months of his service together with such further period or periods (not exceeding in all a further twelve months) as may at any time before the end of his period of probation be added thereto by a direction (which may be revoked by a subsequent direction) of any person who has for the time being power under this paragraph to discharge him, or, in a case to which Regulation 10 (4) of these Regulations applies, would with the consent of the Secretary of State have that power." [485]

2.—(1) These Regulations may be cited as the National Fire Service (General) (No. 3) Regulations, 1943.

(2) These Regulations shall come into operation on the first day of August, nineteen hundred and forty-three. [486]

\* \* \* \* \*

Note as to S. R. & O., 1943, No. 1012.—Paragraphs (2), (2A) and (3) of Regulation 7 of the National Fire Service (General) Regulations, 1941 (which were substituted for paragraphs (2) and (3) of that Regulation by the National Fire Service (General) (No 5) Regulations, 1942, S. R. & O., 1942, No. 1848) were amended by the National Fire Service (General) (No. 6) Regulations, 1942 (S. R. & O., 1942, No. 2638) and the National Fire Service (General) (No. 2) Regulations, 1943 (S. R. & O., 1943, No. 461). This Statutory Rule and Order consolidates the paragraphs, as amended, with the two following amendments, namely, the power to promote a fireman to, or reduce him from, the rank of Divisional Officer and to discharge a Divisional Officer, hitherto exercisable by the Regional Commissioner as well as by the Secretary of State, is made exercisable by the Secretary of State only, and the power to promote a firewoman to, or reduce her from, the rank of Group Officer and to discharge a Group Officer, hitherto exercisable by the Fire Force Commander as well as by the Secretary of State, is made exercisable by the Regional Commissioner as well as by the Secretary of State.

## THE NATIONAL FIRE SERVICE (GENERAL) (NO. 4) REGULATIONS, 1943

*S. R. & O., 1943, No. 1151*

*August 5, 1943*

In pursuance of the powers conferred upon me by the Fire Services (Emergency Provisions) Act, 1941, I hereby make the following Regulations :—

1. In the proviso to paragraph 3 of the Third Schedule to the National Fire Service (General) Regulations, 1941 (which entitles whole-time firemen, except in an emergency, to a continuous rest period of twenty-four hours in every week or period of three days, according to their hours of duty), after the words “ subject to ” there shall be inserted the words “ any general or special directions of the Secretary of State and to ”. [487]

2. These Regulations may be cited as the National Fire Service (General) (No. 4) Regulations, 1943. [488]

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## THE NATIONAL FIRE SERVICE (GENERAL) (NO. 5) REGULATIONS, 1943

*S. R. & O., 1943, No. 1333*

*September 15, 1943*

In pursuance of the powers conferred upon me by the Fire Services (Emergency Provisions) Act, 1941, I hereby make the following Regulations :—

1. In Regulation 6 (3) of the National Fire Service (General) Regulations, 1941, in the table of the ranks of firewomen, after the entry “ Assistant Group Officer ” there shall be inserted the entry “ Senior Leading Firewoman ”. [489]

2. In paragraph 1 (2) of the Third Schedule to the said Regulations, for the entries in the scale of pay relating to a Group Officer and an Assistant Group Officer there shall be substituted the following entries :—

	£	s.	d.
“ Group Officer .. .. .	275	0	0 per annum
Assistant Group Officer .. .. .	225	0	0 per annum
Senior Leading Firewoman .. .. .	3	12	0 per week.”

[490]

3. These Regulations may be cited as the National Fire Service (General) (No. 5) Regulations, 1943. [491]

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*Note as to S. R. & O., 1943, No. 1333.—These Regulations make certain alterations in the ranks and rates of pay for women in the National Fire Service. Provision is made for a new rank, that of Senior Leading Firewoman, with pay at the rate of £3 12s. 0d. per week, and the pay of Group Officers is raised from £250 per annum to £275 per annum and that of Assistant Group Officers from £3 15s. 0d. per week to £225 per annum.*

## THE NATIONAL FIRE SERVICE (ALTERATION OF FIRE AREAS) REGULATIONS, 1943

*S. R. & O., 1943, No. 129*

*January 25, 1943*

In pursuance of the powers conferred upon me by the Fire Services (Emergency Provisions) Act, 1941, I hereby make the following Regulations :—

1.—(1) These Regulations may be cited as the National Fire Service (Alteration of Fire Areas) Regulations, 1943.

(2) The Interpretation Act, 1889, applies for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament.

(3) In these Regulations “ the principal Regulations ” means the National Fire Service (General) Regulations, 1941. [492]

2. As from the 1st February, 1943, the borough of Eccles and the urban district of Irlam shall be transferred from Fire Area 27 to Fire Area 28 ; and accordingly in Part I of the First Schedule to the principal Regulations—

(a) under the heading Fire Area 27, the words “ Eccles ” and “ Irlam ” shall be omitted ; and

(b) under the heading Fire Area 28, there shall be inserted after the word “ *Boroughs* ” the word “ Eccles ” and after the words “ Ince-in-Makerfield ” the word “ Irlam ”. [493]

3.—(1) The following transitional provisions shall have effect in relation to the borough and urban district transferred by these Regulations from Fire Area 27 to Fire Area 28.

(2) Any member of the Fire Force for Fire Area 27, who, immediately before the transfer, was stationed in the borough of Eccles or the urban district of Irlam or, being then temporarily posted to a reserve or other station or suspended from duty or placed on reserve, was last stationed in the said borough or urban district before he was so posted or suspended or placed on reserve, shall, on the said transfer taking effect, himself be transferred, by virtue of these Regulations and without more, to the Fire Force for Fire Area 28.

(3) Where any fireman so transferred had, before his transfer, committed an offence against discipline, any proceedings commenced before the transfer under Part II of the Second Schedule to the principal Regulations may be carried on as if these Regulations had not been made, except that anything which under proviso (iii) to sub-paragraph (1) and sub-paragraphs (2) and (3) of paragraph 7 of the said Part II falls to be done by, to or before the Fire Force Commander shall be done by, to or before the Fire Force Commander for the Fire Force for Fire Area 28.

The references in this paragraph of the Fire Force Commander include references to any person authorised or required under paragraph 1 of Part IV of the Second Schedule to the principal Regulations to act instead of the Fire Force Commander.

(4) Any notice served under the National Service Act, 1941, requiring a person to present himself on or after the 1st February, 1943, at any place in the borough of Eccles or the urban district of Irlam to the Fire Force Commander for the Fire Force for Fire Area 27 shall have effect as if it had required him to present himself there to the Fire Force Commander for the Fire Force for Fire Area 28. [494]

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## THE NATIONAL FIRE SERVICE (ALTERATION OF FIRE AREAS) (NO. 2) REGULATIONS, 1943

*S. R. & O., 1943, No. 1119*

*August 3, 1943*

In pursuance of the powers conferred upon me by the Fire Services (Emergency Provisions) Act, 1941, I hereby make the following Regulations :—

1.—(1) These Regulations may be cited as the National Fire Service (Alteration of Fire Areas) (No. 2) Regulations, 1943.

(2) The Interpretation Act, 1889, applies for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament.

(3) In these Regulations “ the principal Regulations ” means the National Fire Service (General) Regulations, 1941. [495]

2. As from the 16th August, 1943, the county borough of Chester, the urban districts of Ellesmere Port, Hoole and Neston and the rural district of Chester shall be transferred from Fire Area 26 to Fire Area 41; and accordingly in Part I of the First Schedule to the principal Regulations—

(a) under the heading Fire Area 26, in the paragraph beginning “ The county boroughs of ” the word “ Chester ” shall be omitted and in the paragraph beginning “ the following districts in the county of Chester ” the words “ Ellesmere Port ”, “ Hoole ” and “ Neston ” and the words “ *Rural District : Chester* ” shall be omitted.

(b) under the heading Fire Area 41, after the words “ The county boroughs of ” the word “ Chester ” shall be inserted, and in the paragraph beginning “ The following districts in the county of Chester ” there shall be inserted after the word “ Alsagar ” the words “ Ellesmere Port, Hoole ”, after the word “ Nantwich ” (where it first occurs) the word “ Neston ” and after the words “ *Rural Districts* ”, the word “ Chester ”. [496]

3.—(1) The following transitional provisions shall have effect in relation to the county borough, urban districts and rural district transferred by these Regulations from Fire Area 26 to Fire Area 41.

(2) Any member of the Fire Force for Fire Area 26, who, immediately before the transfer, was stationed in the county borough of Chester, any of the urban districts of Ellesmere Port, Hoole or Neston, or the rural district of Chester, or, being then temporarily posted to a reserve or other station or suspended from duty or placed on reserve, was last stationed in the said county borough, any of the said urban districts, or the said rural district before he was so posted or suspended or placed on reserve, shall, on the said transfer taking effect, himself be transferred, by virtue of these Regulations and without more, to the Fire Force for Fire Area 41.

(3) Where any fireman so transferred had, before his transfer, committed an offence against discipline, any proceedings commenced before the transfer under Part II of the Second Schedule to the principal Regulations may be carried on as if these Regulations had not been made, except that anything which under proviso (iii) to sub-paragraph (1) and sub-paragraphs (2) and (3) of paragraph 7 of the said Part II falls to be done by, to or before the Fire Force Commander shall be done by, to or before the Fire Force Commander for the Fire Force for Fire Area 41.

The references in this paragraph to the Fire Force Commander include references to any person authorised or required under paragraph 1 of Part IV

of the Second Schedule to the principal Regulations to act instead of the Fire Force Commander.

(4) Any notice served under the National Service Act, 1941, requiring a person to present himself on or after the 16th August, 1943, at any place in the county borough of Chester, the urban districts of Ellesmere Port, Hoole or Neston, or the rural district of Chester to the Fire Force Commander for the Fire Force for Fire Area 26 shall have effect as if it had required him to present himself there to the Fire Force Commander for the Fire Force for Fire Area 41. [497]

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**RULES MADE BY THE SECRETARY OF STATE, WITH REGARD TO APPEALS UNDER REGULATION 9 (3) OF THE NATIONAL FIRE SERVICE (PRESERVATION OF PENSIONS) (ACT OF 1925) REGULATIONS, 1941 (S. R. & O. 1941 NO. 1268), REGULATION 9 (3) OF THE NATIONAL FIRE SERVICE (PRESERVATION OF PENSIONS) (POLICE FIREMEN) REGULATIONS, 1941 (S. R. & O. 1941 NO. 1271), AND REGULATION 9 (3) OF THE NATIONAL FIRE SERVICE (PRESERVATION OF PENSIONS) (BIRMINGHAM AND LEICESTER) REGULATIONS, 1941 (S. R. & O. 1941 NO. 1273)**

*S. R. & O., 1943, No. 522*

*March 9, 1943*

**1. In these Rules—**

- (i) “the Regulations” means the National Fire Service (Preservation of Pensions) (Act of 1925) Regulations, 1941, the National Fire Service (Preservation of Pensions) (Police Firemen) Regulations, 1941, or the National Fire Service (Preservation of Pensions) (Birmingham and Leicester) Regulations, 1941 ;
- (ii) “appeal” means an appeal under Regulation 9 (3) of the Regulations, and “appellant” shall be construed accordingly ;
- (iii) “referee” means the independent person nominated by the Secretary of State for the purposes of an appeal. [498]

2.—(1) Every opinion given by the medical practitioner selected by the certifying authority on any question under Regulation 9 of the Regulations shall be stated in writing ; and if the member or former member of the National Fire Service to whom the opinion relates applies, within fourteen days of his being informed of the decision of the certifying authority, for a copy of that opinion, it shall be supplied to him by the certifying authority, and he shall be entitled to appeal against the opinion so given if, within fourteen days after the copy of the opinion has been sent to him or such longer period as the certifying authority may fix, he gives notice in writing to the certifying authority of his desire to appeal.

(2) Any such notice shall be accompanied by a written statement of the grounds on which he desires to appeal against the opinion of the medical practitioner. [499]

3. Except where the Secretary of State is the certifying authority, the certifying authority shall, within seven days of receipt of such notice and

statement, forward to the Secretary of State two copies thereof and of the opinion which is the subject of the appeal, together with particulars of the name of the appellant and the place where he resides. [500]

4. When the referee has received from the Secretary of State copies of the documents referred to in the last preceding Rule, he shall as soon as may be appoint a time and place for proceeding with the consideration of the appeal and shall send notice in writing of the time and place so appointed to the certifying authority and to the appellant :

Provided that where the referee is satisfied that the appellant is unable to travel, the place appointed shall be that at which the appellant resides. [501]

5.—(1) The appellant and the certifying authority, after the appointment of the referee, may forward to him in writing any further statements relative to the subject of the appeal which he or they may desire to submit, and any such statements, if received by the referee before the appointed date, shall be considered by him.

(2) Where any such statements are forwarded to the referee, a copy thereof shall at the same time be supplied by the certifying authority to the appellant or by the appellant to the certifying authority, as the case may be. [502]

6.—(1) It shall be the duty of the appellant to attend at the time and place appointed and, if he is a serving member of the National Fire Service, he shall be given such leave as may be necessary to enable him to attend and he shall submit himself to any medical examination which the referee may desire to make or may direct to be made.

(2) The medical practitioner whose opinion is the subject of the appeal, or any other duly qualified medical practitioner selected by the certifying authority, and a duly qualified medical practitioner chosen by the appellant may also attend. [503]

7. In the event of failure of the appellant to attend at the time and place appointed, the referee may forthwith decide on the matter referred to him upon such information as shall then be available :

Provided that where the absence of the appellant is shown to the satisfaction of the referee to be unavoidable, he shall, and on any other grounds he may at his discretion, adjourn the proceedings and resume them at such time and place as he may appoint, giving due notice to the certifying authority and to the appellant. [504]

8. The referee shall notify his decision in writing to the certifying authority and to the appellant.

9. For the purposes of any appeal to which these Rules apply, the referee shall be entitled to fees and allowances as follows :—

- (a) for deciding on the question referred to him in the appeal and for all duties performed in connection therewith, three guineas ;
- (b) where for the purposes of the appeal the referee is compelled to travel to a place distant more than two miles from his residence, in addition to the above fee, five shillings for each mile beyond two, and up to ten, miles distant from his residence, and thereafter one shilling for each mile distant therefrom ;
- (c) the amount of any fees or expenses incurred by him with the approval of the Secretary of State in respect of any expert assistance which, in a case involving special difficulty, he may consider it necessary to obtain. [505]



10.—(1) Except as hereinafter provided, all fees and allowances payable to the referee who acts for the purposes of the appeal and all expenses of the medical practitioner whose opinion is the subject of the appeal or of any other duly qualified medical practitioner selected by the certifying authority shall be paid by the Secretary of State; and all expenses incurred by the appellant in attending before the referee at the time and place appointed and all fees or expenses of any medical practitioner chosen by the appellant shall be paid by the appellant.

(2) Where the referee decides in favour of the certifying authority, the Secretary of State may, unless the referee otherwise directs, require the appellant to pay towards the costs of the appeal such sum as he may think fit, not exceeding the total amount of any fees and allowances payable by the Secretary of State to the referee in respect of the appeal, and such sum shall be recoverable from the appellant by the Secretary of State, and may, if the Secretary of State so directs, be deducted from any pay or pension due or which may become due to him.

(3) Where the referee decides in favour of the appellant, the Secretary of State shall, unless the referee otherwise directs, refund to the appellant a sum equal to the amount of any personal expenses actually and reasonably incurred by him in respect of his attendance before the referee, and, if a medical practitioner chosen by him has attended before the referee, the amount of any reasonable fees and expenses paid by the appellant in respect of such attendance.

(4) If any question arises whether the decision is in favour of the certifying authority or of the appellant, it shall be determined by the referee. [506]

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## THE NATIONAL FIRE SERVICE (PRESERVATION OF PENSIONS) REGULATIONS, 1943

*S. R. & O., 1943, No. 1221*

*August 19, 1943*

In pursuance of the powers conferred on me by the Fire Services (Emergency Provisions) Act, 1941, I hereby make the following Regulations :—

### PART I

#### *Introductory*

1. These Regulations may be cited as the National Fire Service (Preservation of Pensions) Regulations, 1943. [507]

2. The Interpretation Act, 1889, applies for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament. [508]

### PART II

#### *Amendments of the Act of 1925 Regulations*

3.—(1) If at any time after the 19th August, 1943, a person to whom the National Fire Service (Preservation of Pensions) (Act of 1925) Regulations, 1941 (hereafter in this Part of these Regulations referred to as “the principal Regulations”), apply receives pay as a whole-time member of the National Fire Service at a rate higher than that of his local brigade pay, the amount, or, as the case may be, the maximum amount, of any pension, gratuity or allowance payable to or in respect of him under the Act of 1925 on his death

or retirement shall, if the result of so doing would be to increase the said amount or maximum amount and he was when he died or retired a whole-time member of the National Fire Service not on reserve, be computed on the assumption set out in paragraph (2) of this Regulation.

(2) The said assumption is that the annual pay of the person in question is a sum equal to the average annual amount of the pay received by him (either as a professional fireman or as a whole-time member of the National Fire Service) over the period of three years ending with the day on which he dies or is treated as having retired :

Provided that in computing the said average, any excess of the pay received by him as a whole-time member of the National Fire Service for any part of that period over one and a half times the amount of his local brigade pay for that part of that period shall be left out of account.

For the purposes of this paragraph, during—

- (a) any period before the 20th August, 1943, during which a person was in receipt of pay as a whole-time member of the National Fire Service ; and
- (b) any period during which section five of the Act of 1939 applied to him for any purpose,

he shall be deemed to have received, as a professional fireman or as a whole-time member of the National Fire Service, his local brigade pay. [509]

4.—(1) Regulation 6 of the principal Regulations shall not apply in relation to a person to whom those Regulations apply during any period after the 19th August, 1943, during which his pay as a whole-time member of the National Fire Service is greater than his local brigade pay, but the Secretary of State shall during any such period, deduct from his pay sums—

- (a) where the amount of his pay does not exceed one and a half times the amount of his local brigade pay, at the rate of five per cent. of his pay ;
- (b) where the amount of his pay exceeds one and a half times the amount of his local brigade pay, at the rate of five per cent. of one and a half times the amount of his local brigade pay ;

and the deductions so made shall be deemed for the purposes of the Act of 1925 (other than those of paragraphs (a) or (b) of subsection (1) of section twenty) to be rateable deductions made by the local authority.

(2) Regulation 7 of the principal Regulations shall have effect as if the reference therein to Regulation 6 of those Regulations included a reference to paragraph (1) of this Regulation. [510]

5. If on or after the 20th August, 1943, but not later than the 20th November, 1943, a person serving in the National Fire Service (being a person to whom the principal Regulations apply) gives notice in writing to the Secretary of State that he desires that his National Fire Service pay shall be taken into account for pension purposes from the 21st August, 1942,—

- (a) Regulation 3 of these Regulations shall apply in relation to him as if for the references to the 19th August, 1943, and the 20th August, 1943, there were substituted respectively references to the 20th August, 1942, and the 21st August, 1942 ; and
- (b) there shall be deducted from his pay as a member of the National Fire Service, at such times and in such instalments as the Secretary of State may direct, the amount by which the deductions made from his pay under Regulation 6 of the principal Regulations for the period beginning with the 21st August, 1942, and ending with the 19th

August, 1943, are less than the deductions which would have been made for that period under paragraph (1) of Regulation 4 of these Regulations if the said paragraph (1) had come into force on the 21st August, 1942, and the reference therein to the 19th August, 1943, had been a reference to the 20th August, 1942. [511]

6.—(1) In this Part of these Regulations “local brigade pay” means, in relation to any person, the pay computed as for the purposes of the principal Regulations to which he would have been entitled if he had remained a member of the local brigade with the rank which he held immediately before he left it, and other expressions have the same meanings as in the principal Regulations.

(2) In computing for the purposes of this Part of these Regulations the pay received by a person as a whole-time member of the National Fire Service, any allowances received by him and any emoluments which by virtue of paragraph 8 (3) of the Third Schedule to the National Fire Service (General) Regulations, 1941, are received by him shall be left out of account. [512]

### PART III

#### *Amendments of the General Pension Funds Regulations*

7. This Part of these Regulations applies to any person to whom the National Fire Service (Preservation of Pensions) (General Pension Funds) Regulations, 1941, as amended by the National Fire Service (Preservation of Pensions) (General Pensions Funds) Regulations, 1942 (hereafter in this Part of these Regulations referred to as “the principal Regulations”), apply, being a person who, when he served in his civil capacity, was a professional fireman. [513]

8. Subject to the provisions of this Part of these Regulations, where, for the purposes of calculating the amount of superannuation allowance due to any person to whom this Part of these Regulations applies, being a person who when he retired was a whole-time member of the National Fire Service not on reserve, it is necessary to take account of his remuneration in respect of any period after the 19th August, 1943, during which he was a whole-time member of the National Fire Service, and, during that period or any part thereof, he received pay at a rate higher than that of his civil remuneration, the amount of his remuneration during that period, or, as the case may be, that part thereof, shall, notwithstanding anything in subsection (3) of section three of the Local Government Staffs (War Service) Act, 1939, be deemed to have been the pay received by him as a whole-time member of the National Fire Service. [514]

9. Subsections (2) and (5) of section four of the Local Government Staffs (War Service) Act, 1939, and Regulation 7 of the principal Regulations shall not apply, in relation to a person to whom this Part of these Regulations applies, during any period after the 19th August, 1943, during which his pay as a whole-time member of the National Fire Service is greater than his civil remuneration, but—

- (a) the Secretary of State shall, during any such period, deduct from his pay sums at the rate at which contributions to the superannuation fund or other fund out of which his superannuation allowance might become payable to him would have been payable by him if he had continued to serve in his civil capacity; and
- (b) the sums so deducted shall be deemed, for the purposes of the Local Government Superannuation Act, 1937, the Local Government Superannuation (Scotland) Act, 1937, or the local Act scheme in

question, as the case may be, to have been duly contributed by him to that fund ; and

- (c) the appropriate authority shall pay any contribution which it would have been liable to pay to that fund if he had continued to serve in his civil capacity and had paid contributions accordingly. [515]

10. If on or after the 20th August, 1943, but not later than the 20th November, 1943, a person serving in the National Fire Service (being a person to whom this Part of these Regulations applies) gives notice in writing to the Secretary of State that he desires that his National Fire Service pay shall be taken into account for pension purposes from the 21st August, 1942—

- (a) Regulation 8 of these Regulations shall apply in relation to him as if for the reference to the 19th August, 1943, there were substituted a reference to the 20th August, 1942 ; and
- (b) there shall be deducted from his pay as a member of the National Fire Service, at such times and in such instalments as the Secretary of State may direct, the amount by which the deductions made from his pay under Regulation 7 of the principal Regulations for the period beginning with the 21st August, 1942, and ending with the 19th August, 1943, are less than the deductions which would have been made for that period under Regulation 9 of these Regulations if the said Regulation 9 had come into force on the 21st August, 1942, and the reference therein to the 19th August, 1943, had been a reference to the 20th August, 1942. [516]

11.—(1) In this Part of these Regulations—

“ professional fireman ” means any member of a fire brigade maintained by a local authority who was wholly and permanently employed in fire brigade duties ;

“ civil remuneration ” means, in relation to any period or part of a period, so much of the remuneration to which the person in question would have been entitled if he had continued to serve in his civil capacity during that period, or, as the case may be, that part thereof, as would have been taken into account for superannuation purposes,

and other expressions have the same meanings as in the Local Government Staffs (War Service) Act, 1939.

(2) In computing for the purposes of this Part of these Regulations the pay received by a person as a whole-time member of the National Fire Service, any allowances received by him, any emoluments which by virtue of paragraph 8 (3) of the Third Schedule to the National Fire Service (General) Regulations, 1941, are received by him and any sums received by him in excess of one and a half times his civil remuneration shall be left out of account. [517]

#### PART IV

##### *Amendments of Police Firemen Regulations*

12.—(1) If at any time after the 19th August, 1943, a person to whom the National Fire Service (Preservation of Pensions) (Police Firemen) Regulations, 1941 (hereafter in this Part of these Regulations referred to as “ the principal Regulations ”), apply receives pay as a whole-time member of the National Fire Service at a rate higher than that of his local brigade pay, the amount, or, as the case may be, the maximum amount, of any pension, gratuity or allowance payable to or in respect of him under the Act of 1921 on his death or retirement shall, if the result of so doing would be to increase the said amount or maximum amount and he was when he died or retired a whole-time member of the National Fire Service not on reserve, be computed on the assumption set out in paragraph (2) of these Regulations.

(2) The said assumption is that the annual pay of the person in question is a sum equal to the average annual amount of the pay received by him (either as a constable or as a whole-time member of the National Fire Service) over the period of three years ending with the day on which he dies or is treated as having retired :

Provided that in computing the said average, any excess of the pay received by him as a whole-time member of the National Fire Service for any part of that period over one and a half times the amount of his local brigade pay for that part of that period shall be left out of account.

For the purposes of this paragraph during—

- (a) any period before the 20th August, 1943, during which a person was in receipt of pay as a whole-time member of the National Fire Service ; and
- (b) any period during which section five of the Act of 1939 applied to him for any purpose,

he shall be deemed to have received, as a constable or as a whole-time member of the National Fire Service, his local brigade pay. [518]

13.—(1) Regulation 6 of the principal Regulations shall not apply in relation to a person to whom those Regulations apply during any period after the 19th August, 1943, during which his pay as a whole-time member of the National Fire Service is greater than his local brigade pay, but the Secretary of State shall, during any such period, deduct from his pay sums—

- (a) where the amount of his pay does not exceed one and a half times the amount of his local brigade pay, at the rate of five per cent. of his pay ;
- (b) where the amount of his pay exceeds one and a half times the amount of his local brigade pay, at the rate of five per cent. of one and a half times the amount of his local brigade pay,

and the deductions so made shall be deemed for the purposes of the Act of 1921 to be rateable deductions made by the police authority.

(2) Regulation 7 of the principal Regulations shall have effect as if the reference therein to Regulation 6 of those Regulations included a reference to paragraph (1) of this Regulation. [519]

14. If on or after the 20th August, 1943, but not later than the 20th November, 1943, a person serving in the National Fire Service (being a person to whom the principal Regulations apply) gives notice in writing to the Secretary of State that he desires that his National Fire Service pay shall be taken into account for pension purposes from the 21st August, 1942,—

- (a) Regulation 12 of these Regulations shall apply in relation to him as if for the references to the 19th August, 1943, and the 20th August, 1943, there were substituted respectively references to the 20th August, 1942, and the 21st August, 1942 ; and
- (b) there shall be deducted from his pay as a member of the National Fire Service, at such times and in such instalments as the Secretary of State may direct, the amount by which the deductions made from his pay under Regulation 6 of the principal Regulations for the period beginning with the 21st August, 1942, and ending with the 19th August, 1943, are less than the deduction which would have been made for that period under paragraph (1) of Regulation 13 of these Regulations if the said paragraph (1) had come into force on the 21st August, 1942, and the reference therein to the 19th August, 1943, had been a reference to the 20th August, 1942. [520]

15.—(1) In this Part of these Regulations “local brigade pay” means, in relation to any person, the pay computed as for the purposes of the principal Regulations to which he would have been entitled if he had remained a member of the police force with the rank which he held immediately before he left it, and other expressions have the same meanings as in the principal Regulations.

(2) In computing for the purposes of this Part of these Regulations the pay received by a person as a whole-time member of the National Fire Service, any allowances received by him and any emoluments which by virtue of paragraph 8 (3) of the Third Schedule to the National Fire Service (General) Regulations, 1941, are received by him shall be left out of account. [521]

## PART V

### *Amendments of London and West Ham Regulations*

16.—(1) If at any time after the 19th August, 1943, a person to whom the National Fire Service (Preservation of Pensions) (London and West Ham) Regulations, 1941 (hereafter in this Part of these Regulations referred to as “the principal Regulations”), apply receives pay as a whole-time member of the National Fire Service at a rate higher than that of his local brigade pay, the amount of any pension, gratuity or allowance payable to or in respect of him under the pension provisions on his death or retirement shall, if the result of so doing would be to increase the said amount and he was when he died or retired a whole-time member of the National Fire Service not on reserve, be computed on the assumption set out in paragraph (2) of this Regulation.

(2) The said assumption is that the pay and pensionable emoluments or allowances, if any, of the person in question amount to a sum equal to the average annual amount of the pay received by him (either as a professional fireman or as a whole-time member of the National Fire Service) over the period of three years ending with the day on which he dies or is treated as having retired :

Provided that in computing the said average any excess of the pay received by him as a whole-time member of the National Fire Service for any part of that period over one and a half times the amount of his local brigade pay for that part of that period shall be left out of account.

For the purposes of this paragraph during—

(a) any period before the 20th August, 1943, during which a person was in receipt of pay as a whole-time member of the National Fire Service ; and

(b) any period during which section five of the Act of 1939 applied to him for any purpose,

he shall be deemed to have received, as a professional fireman or as a whole-time member of the National Fire Service, his local brigade pay. [522]

17.—(1) Regulation 6 of the principal Regulations shall not apply in relation to a person to whom those Regulations apply during any period after the 19th August, 1943, during which his pay as a whole-time member of the National Fire Service is greater than his local brigade pay, but, if contributions towards pension would have been made by him under Regulation 327 or, as the case may be, Regulation 7, of the pension provisions if he had remained a member of the brigade with the rank which he held immediately before he left the brigade, the Secretary of State shall, during any such period, deduct from his pay sums—

(a) where the amount of his pay does not exceed one and a half times the amount of his local brigade pay, at the rate of two and a half per cent. of his pay ;



- (b) where the amount of his pay exceeds one and a half times the amount of his local brigade pay, at the rate of two and a half per cent. of one and a half times the amount of his local brigade pay ;

and the deductions so made shall be deemed for the purposes of the pensions provisions to be contributions towards pensions made under the said Regulation 327 or, as the case may be, the said Regulation 7.

(2) Regulation 7 of the principal Regulations shall have effect as if the reference therein to Regulation 6 of those Regulations included a reference to paragraph (1) of this Regulation. [523]

18. If on or after the 20th August, 1943, but not later than 20th November, 1943, a person serving in the National Fire Service (being a person to whom the principal Regulations apply) gives notice in writing to the Secretary of State that he desires that his National Fire Service pay shall be taken into account for pension purposes from the 21st August, 1942—

- (a) Regulation 16 of these Regulations shall apply in relation to him as if for the references to the 19th August, 1943, and the 20th August, 1943, there were substituted respectively references to the 20th August, 1942, and the 21st August, 1942 ; and
- (b) there shall be deducted from his pay as a member of the National Fire Service, at such times and in such instalments as the Secretary of State may direct, the amount by which the deductions made from his pay under Regulation 6 of the principal Regulations for the period beginning with the 21st August, 1942, and ending with the 19th August, 1943, are less than the deductions which would have been made for that period under paragraph (1) of Regulation 17 of these Regulations if the said paragraph (1) had come into force on the 21st August, 1942, and the reference therein to the 19th August, 1943, had been a reference to the 20th August, 1942. [524]

19. At the end of Regulation 8 (1) of the principal Regulations there shall be inserted the following proviso :—

“ Provided that if the authority which dismissed or discharged him from the National Fire Service so directs, the total amount of his contributions towards pension shall be refunded to him.” [525]

20.—(1) In this Part of these Regulations “ local brigade pay ” means, in relation to any person, the pay computed as for the purposes of the principal Regulations (together with, for the purpose of Regulation 16 of these Regulations, the pensionable emoluments or allowances, if any) to which he would have been entitled if he had remained a member of the brigade with the rank which he held immediately before he left it, and other expressions have the same meanings as in the principal Regulations.

(2) In computing for the purposes of this Part of these Regulations the pay received by a person as a whole-time member of the National Fire Service, any allowances received by him and any emoluments which by virtue of paragraph 8 (3) of the Third Schedule to the National Fire Service (General) Regulations, 1941, are received by him shall be left out of account. [526]

## PART VI

### *Amendments of Birmingham and Leicester Regulations*

21.—(1) If at any time after the 19th August, 1943, a person to whom the National Fire Service (Preservation of Pensions) (Birmingham and Leicester) Regulations, 1941 (hereafter in these Regulations referred to as “ the principal Regulations ”), apply receives pay as a whole-time member



of the National Fire Service at a rate higher than that of his local brigade pay, the amount or, as the case may be, the maximum amount, of any pension, gratuity or allowance payable to or in respect of him under the Act of 1921 on his death or retirement, shall, if the result of so doing would be to increase the said amount or maximum amount and he was when he died or retired a whole-time member of the National Fire Service not on reserve, be computed on the assumption set out in paragraph (2) of this Regulation.

(2) The said assumption is that the annual pay of the person in question is a sum equal to the average annual amount of the pay received by him (either as a professional fireman or as a whole-time member of the National Fire Service) over the period of three years ending with the day on which he dies or is treated as having retired :

Provided that in computing the said average, any excess of the pay received by him as a whole-time member of the National Fire Service for any part of that period over one and a half times the amount of his local brigade pay for that part of that period shall be left out of account.

For the purposes of this paragraph during—

- (a) any period before the 20th August, 1943, during which a person was in receipt of pay as a whole-time member of the National Fire Service ; and
- (b) any period during which section five of the Act of 1939 applied to him for any purpose,

he shall be deemed to have received, as a professional fireman or as a whole-time member of the National Fire Service, his local brigade pay. [527]

**22.**—(1) Regulation 6 of the principal Regulations shall not apply in relation to a person to whom those Regulations apply during any period after the 19th August, 1943, during which his pay as a whole-time member of the National Fire Service is greater than his local brigade pay but the Secretary of State shall, during any such period, deduct from his pay sums—

- (a) where the amount of his pay does not exceed one and a half times the amount of his local brigade pay, at the rate of five per cent. of his pay ;
- (b) where the amount of his pay exceeds one and a half times the amount of his local brigade pay, at the rate of five per cent. of one and a half times the amount of his local brigade pay,

and the deductions so made shall be deemed for the purposes of the Act of 1921 to be rateable deductions made by the Corporation :

Provided that nothing in this paragraph shall require the said deductions to be so treated for the purposes of paragraph (a) of subsection (2) of section seventy-four of the Birmingham Corporation (General Powers) Act, 1929, or, as the case may be, for the purposes of Article V of the Order confirmed by the Leicester Fire Brigade Provisional Order Confirmation Act, 1925.

(2) Regulation 7 of the principal Regulations shall have effect as if the reference therein to Regulation 6 of those Regulations included a reference to paragraph (1) of this Regulation. [528]

**23.** If on or after the 20th August, 1943, but not later than the 20th November, 1943, a person serving in the National Fire Service (being a person to whom the principal Regulations apply) gives notice in writing to the Secretary of State that he desires that his National Fire Service pay shall be taken into account for pension purposes from the 21st August, 1942—

- (a) Regulation 21 of these Regulations shall apply in relation to him as if for the references to the 19th August, 1943, and the 20th August,

1943, there were substituted respectively references to the 20th August, 1942, and the 21st August, 1942; and

- (b) there shall be deducted from his pay as a member of the National Fire Service, at such times and in such instalments as the Secretary of State may direct, the amount by which the deductions made from his pay under Regulation 6 of the principal Regulations for the period beginning with the 21st August, 1942, and ending with the 19th August, 1943, are less than the deductions which would have been made for that period under paragraph (1) of Regulation 22 of these Regulations if the said paragraph (1) had come into force on the 21st August, 1942, and the reference therein to the 19th August, 1943, had been a reference to the 20th August, 1942. [529]

24.—(1) In this Part of these Regulations “local brigade pay” means, in relation to any person, the pay computed as for the purposes of the principal Regulations to which he would have been entitled if he had remained a member of the brigade with the rank which he held immediately before he left it, and other expressions have the same meanings as in the principal Regulations.

(2) In computing for the purposes of this Part of these Regulations the pay received by a person as a whole-time member of the National Fire Service, any allowances received by him and any emoluments which by virtue of paragraph 8 (3) of the Third Schedule to the National Fire Service (General) Regulations, 1941, are received by him shall be left out of account. [530]

## PART VII

### *Amendments of Bolton and Derby Regulations*

25.—(1) If at any time after the 19th August, 1943, a person to whom the National Fire Service (Preservation of Pensions) (Bolton and Derby) Regulations, 1941 (hereafter in this Part of these Regulations referred to as “the principal Regulations”), apply receives pay as a whole-time member of the National Fire Service at a rate higher than that of his local brigade pay, the amount, or, as the case may be, the maximum amount of any pension, gratuity or allowance payable to or in respect of him under the Act of 1890 on his death or retirement shall, if the result of so doing would be to increase the said amount or maximum amount and he was when he died or retired a whole-time member of the National Fire Service not on reserve, be computed on the assumption set out in paragraph (2) of this Regulation.

(2) The said assumption is that the annual pay of the person in question is a sum equal to the average annual amount of the pay received by him (either as a professional fireman or as a whole-time member of the National Fire Service) over the period of three years ending with the day on which he dies or is treated as having retired:

Provided that in computing the said average, any excess of the pay received by him as a whole-time member of the National Fire Service for any part of that period over one and a half times the amount of his local brigade pay for that part of that period shall be left out of account.

For the purposes of this paragraph during any period before the 20th August, 1943, during which a person was in receipt of pay as a whole-time member of the National Fire Service, he shall be deemed to have received his local brigade pay. [531]

26. Regulation 6 of the principal Regulations shall not apply in relation to a person to whom those Regulations apply during any period after the 19th August, 1943, during which his pay as a whole-time member of the

National Fire Service is greater than his local brigade pay, but the Secretary of State shall, during any such period, deduct from his pay sums—

- (a) where the amount of his pay does not exceed one and a half times the amount of his local brigade pay, at the rate of, in the case of Bolton, four, and, in the case of Derby, five per cent. of his pay ; and
- (b) where the amount of his pay exceeds one and a half times the amount of his local brigade pay, at the rate of, in the case of Bolton, four, and, in the case of Derby, five per cent. of one and a half times the amount of his local brigade pay,

and the deductions so made shall be deemed for the purposes of the Act of 1890 (other than those of paragraph (a) of subsection (1) of section sixteen) to be rateable deductions made by the Corporation. [532]

27. If on or after the 20th August, 1943, but not later than the 20th November, 1943, a person serving in the National Fire Service (being a person to whom the principal Regulations apply) gives notice in writing to the Secretary of State that he desires that his National Fire Service pay shall be taken into account for pension purposes from the 21st August, 1942—

- (a) Regulation 25 of these Regulations shall apply in relation to him as if for the references to the 19th August, 1943, and the 20th August, 1943, there were substituted respectively references to the 20th August, 1942, and the 21st August, 1942 ; and
- (b) there shall be deducted from his pay as a member of the National Fire Service, at such times and in such instalments as the Secretary of State may direct, the amount by which the deductions made from his pay under Regulation 6 of the principal Regulations for the period beginning with the 21st August, 1942, and ending with the 19th August, 1943, are less than the deductions which would have been made for that period under Regulation 26 of these Regulations if the said Regulation 26 had come into force on the 21st August, 1942, and the reference therein to the 19th August, 1943, had been a reference to the 20th August, 1942. [533]

28.—(1) In this Part of these Regulations “ local brigade pay ” means, in relation to any person, the pay computed as for the purposes of the principal Regulations to which he would have been entitled if he had remained a member of the brigade with the rank which he held immediately before he left it, and other expressions have the same meanings as in the principal Regulations.

(2) In computing for the purposes of this Part of these Regulations the pay received by a person as a whole-time member of the National Fire Service, any allowances received by him and any emoluments which by virtue of paragraph 8 (3) of the Third Schedule to the National Fire Service (General) Regulations, 1941, are received by him shall be left out of account. [534]

\* \* \* \* \*

*Note as to S. R. & O., 1943, No. 1221.—Apart from these Regulations, the pensions of professional and police firemen transferred to the National Fire Service depend on the pay which they would have been receiving if they had continued in the employment of the local or police authority under whom they were respectively serving before the National Fire Service was formed, and their pay in the National Fire Service is for pension purposes irrelevant. These Regulations however, enable National Fire Service pay where it is greater than the pay above-mentioned to be taken into account in certain cases and subject to certain limitations. A subsidiary point is dealt with by Regulation 19 of the present Regulations which enables the contributions towards the pension of an ex-London or West Ham fireman to be refunded to him on his dismissal or discharge without a pension.*

## THE DEFENCE (FIRE GUARD) REGULATIONS, 1943

S. R. &amp; O., 1943, No. 916

June 30, 1943

\* \* \* \* \*

His Majesty in pursuance of the Emergency Powers (Defence) Acts, 1939 and 1940, and of all other powers enabling him in that behalf, is pleased, by and with the advice of His Privy Council to order, and it is hereby ordered as follows :—

1. Regulations twenty-six A, twenty-seven A and twenty-seven B of the Defence (General) Regulations, 1939, are hereby revoked and the following Regulations shall have effect in lieu thereof :— [535]

1.—(1) These Regulations may be cited as the Defence (Fire Guard) Regulations, 1943.

(2) The provisions of Part V of the Defence (General) Regulations, 1939, shall apply for the purpose of the enforcement of these Regulations, and otherwise in relation thereto as if in the said Part V and in the Second Schedule to those Regulations any reference to those Regulations included a reference to these Regulations. [536]

2.—(1) The Minister may by order make provision—

- (a) for the establishment, organisation and co-ordination of fire guard services by local authorities in areas to which the order applies, with a view to securing efficiency and the best use of the available fire guards ;
- (b) for establishing in any such area a system of mutual reinforcement by all fire guards in the area and a uniform system for the reporting of fires by fire guards in the area to the National Fire Service ;
- (c) For securing the instruction and training in fire guard duties of fire guards in such areas and the organisation of training exercises in such duties ;

and the order shall apply to every such area as may be prescribed, being an area or part of an area of a local authority to which it appears to the Minister expedient, for the purpose of securing adequate fire guard services therein, that the order should apply.

(2) Any such order may also provide, subject to such exemptions, relaxations, prohibitions and restrictions as may be provided under paragraph (5) of this Regulation—

- (a) for requiring persons who are of the age prescribed for the compulsory performance of fire guard duties by their sex and reside in an area to which the order applies to be registered and enrolled for the performance of part-time fire guard duties in the area ;
- (b) for extending the said requirement, in the case of certain areas and premises, to persons who are of the age prescribed for their sex and work at premises in an area to which the order applies ;
- (c) for requiring persons enrolled by the local authority for the area, whether compulsorily or voluntarily, but subject (in the case of volunteers) to a right to determine their services by notice in writing, to perform in the area such fire guard duties, and such duties in relation to fires occurring otherwise than as a result of hostile attack, as may be prescribed, and in performing those duties to comply with any directions given by persons authorised in that behalf under the order ;

- (d) for requiring persons so enrolled to attend for the purpose of receiving instruction and training in fire guard duties, and to take part in training exercises in those duties, and to comply with any directions given in the course of such instruction and training or such training exercises by persons authorised in that behalf under the order :

Provided that no person shall be required under the order to perform fire guard duties for periods exceeding in the aggregate forty-eight hours in each period of four weeks, and, for the purpose of calculating the said aggregate periods, any period for which he is required to attend for instruction and training or to take part in any training exercise shall be included.

- (3) No such order shall provide for the registration of any person who—

(a) being a male person, has not attained the age of sixteen years or has attained the age of sixty-five years ; or

(b) being a woman or girl, has not attained the age of eighteen years or has attained the age of forty-five years ;

or shall permit the making of agreements for the voluntary enrolment for fire guard duties—

(i) of any male person who has not attained the age of fifteen years or has attained the age of seventy years ; or

(ii) of any woman or girl who has not attained the age of sixteen years or has attained the age of sixty years.

(4) No person shall be entitled to any remuneration for performing the duties which he is required to perform by virtue of an order made under this Regulation.

(5) Where any order is made under the foregoing provisions of this Regulation, the Minister, either by that order or by a separate order—

(a) shall provide for enabling any person to obtain, on medical grounds or grounds of exceptional hardship, exemption from enrolment under the order or release in whole or in part from fire guard duties under the order ;

(b) may provide for the exemption from registration or enrolment under the order, or for the release in whole or in part from fire guard duties under the order, of such classes or descriptions of person as may be prescribed or, in such circumstances as may be prescribed, of individual persons ;

(c) may provide, as respects any area, for relaxing any of the requirements of the order ;

(d) may provide for prohibiting or restricting, in such cases or classes of cases as may be prescribed, the performance of fire guard duties under the order by persons who are not British subjects.

(6) Any order made under this Regulation may provide for the delegation to Regional Commissioners of any powers exercisable by the Minister under the order.

(7) Any order made under this Regulation may provide for such other matters as appear to the Minister necessary or expedient, being matters incidental or supplementary to the matters for which provision may be made under the foregoing provisions of this Regulation.

(8) In addition to the authorities by whom proceedings may be instituted by virtue of the provisions of Part V of the Defence (General) Regulations, 1939, as applied by Regulation one of these Regulations—

(a) for an offence against this Regulation, or

- (b) for an offence against Regulation eighty-two of the said Regulations (as so applied) in respect of any document issued, or information furnished, for the purposes of this Regulation or of any order made under this Regulation,

proceedings for such an offence may be instituted by or on behalf of any local authority upon whom functions are conferred by or under this Regulation, or may be instituted by or on behalf of a Regional Commissioner. [537]

**3.—(1) The Minister may by order make provision—**

- (a) for requiring the making and carrying out of proper and adequate arrangements for premises or part of premises to which the order applies for the purpose of securing the provision of fire guard and civil defence services at the premises and of equipment and supplies of water required in connection with those services ;
- (b) for authorising or requiring the making of joint arrangements for several premises to which the order applies or, in the case of several such premises in the same occupation, of combined arrangements for those premises ;
- (c) for the amendment of any such arrangements or for the substituting of new arrangements therefor ; and
- (d) for prescribing appropriate departments and appropriate authorities for premises to which the order applies, for the purpose of securing the carrying out of the order ;

and the order shall apply to all premises situated in a prescribed area, except residential premises and unoccupied premises and such other premises or classes or descriptions of premises as may be prescribed, and may provide for the extension of the order to such premises or classes or descriptions of premises as may be prescribed, including residential and unoccupied premises wherever situated.

(2) Any such order may also provide, subject to such exemptions, relaxations, prohibitions and restrictions as may be provided under paragraph 7) of this Regulation—

- (a) for requiring persons who are of the age prescribed for the compulsory performance of fire guard duties by their sex and work at any non-residential premises or live at any residential premises for which arrangements are in force under the order, to perform such fire guard and civil defence duties as may be prescribed, which may include duties in relation to fires occurring otherwise than as a result of hostile attack and, in performing those duties, to comply with any directions given by persons authorised in that behalf under the order ;
- (b) for requiring any such persons who are not needed for the performance of the said duties under arrangements in force for the premises to be released for service under the local authority for the area where they live or for the area where they work ;
- (c) for requiring persons (including paid fire guards) who agree voluntarily to perform fire guard or civil defence duties under arrangements in force for any premises to which the order applies, to perform those duties, subject to a right to determine their agreement by notice in writing, and in performing them to comply with any directions given by persons authorised in that behalf under the order ;
- (d) for securing that persons performing the said duties receive instruction and training with respect to such matters relating to those duties as may be prescribed, and for requiring those persons to attend for the purpose of receiving such instruction and training, and to take

part in any training exercises in fire guard duties organised by the local authority, and to comply with any directions given in the course of such training and instruction or such training exercises per persons authorised in that behalf under the order.

(3) No such order shall require any person working at non-residential premises for which arrangements are in force under the order to perform duties outside his working hours for periods exceeding in the aggregate forty-eight hours in each period of four weeks, or any person living at residential premises for which such arrangements are in force to perform duties for periods exceeding in the aggregate forty-eight hours in each period of four weeks, and for the purpose of calculating the said aggregate periods in the case of any person, any period for which he is required to attend for instruction and training or to take part in any training exercise shall be treated as a period for which he is required to perform duties.

(4) No such order shall provide for the compulsory performance of duties—

- (a) by any male person who has not attained the age of sixteen years or has attained the age of sixty-five years, or
- (b) by any woman or girl who has not attained the age of eighteen years or has attained the age of forty-five years ;

or permit the making of agreements for the voluntary performance of duties—

- (i) by any male person who has not attained the age of fifteen years or has attained the age of seventy years ; or
- (ii) by any woman or girl who has not attained the age of sixteen years or has attained the age of sixty years.

(5) Any such order—

- (a) may provide for the payment of travelling expenses and subsistence allowances to persons performing duties under the order or attending for instruction and training or taking part in training exercises in those duties, but, subject as aforesaid, shall provide that no person shall be entitled to any remuneration for performing such duties, attending for such instruction and training, or taking part in such exercises, outside his working hours ;
- (b) may require the provisions and maintenance for persons performing the said duties of proper and adequate sleeping accommodation, bedding, sanitary conveniences and facilities for washing, and the heating and lighting of the places where sleeping accommodation is provided or the duties are performed ;
- (c) shall make provision as to the manner in which expenses incurred under the order in carrying out arrangements or otherwise shall be defrayed and, in the case of default, for the recovery of the amount of such expenses.

(6) Any such order may require the local authority, on being notified in accordance with the order that proper and adequate arrangements for any premises cannot be made as required by the order without the assistance of the local authority, to provide such assistance, and the order may empower the local authority to exercise control, so far as necessary, of arrangements made for any such premises.

(7) Where any order is made under the foregoing provisions of this Regulation, the Minister either by that order or by a separate order—

- (a) shall provide for enabling any person to obtain, on medical grounds or grounds of exceptional hardship, exemption in whole or in part from duties under the order ;



- (b) may provide for the exemption in whole or in part from such duties of such classes or descriptions of persons as may be prescribed or, in such circumstances as may be prescribed, of individual persons ;
- (c) may provide, as respects any premises to which the order applies or class or description of such premises, for the relaxation of any of the requirements of the order ;
- (d) may provide for prohibiting or restricting, in such cases or classes of cases as may be prescribed, the performance of duties under the order by persons who are not British subjects.

(8) Any order made under this Regulation may provide for the delegation of any functions exercisable under the order by the Minister or by any appropriate department or appropriate authority for any premises to which the order applies.

(9) Any order made under this Regulation may provide for such other matters as appear to the Minister necessary or expedient, being matters incidental or supplementary to the matters for which provision may be made under the foregoing provisions of this Regulation.

(10) Any constable, and any person authorised in writing by the appropriate department or appropriate authority for the premises, may at any time enter and inspect any premises to which such an order applies for the purpose of seeing whether the order is being complied with.

(11) In addition to the authorities by whom proceedings may be instituted by virtue of the provisions of Part V of the Defence (General) Regulations, 1939, as applied by Regulation one of these Regulations—

- (a) for an offence against this Regulation, or
- (b) for an offence against Regulation eighty-two of the said Regulations (as so applied) in respect of any document issued, or information furnished, for the purposes of this Regulation or of any order made under this Regulation,

proceedings for such an offence may be instituted by or on behalf of an appropriate department or appropriate authority or by or on behalf of a Regional Commissioner. [538]

4. Where any person required to perform duties under any order made under these Regulations agrees to perform during any turn of duty—

- (a) work for the construction or improvement of buildings or works used or intended for civil defence purposes (including the purposes of the National Fire Service) or work for forestalling or mitigating the effects of enemy action ;
- (b) any other work for any government department or connected with the performance of their functions by any local authority or harbour authority or with the performance by any undertakers of essential services ;

any such work performed either during his turn of duty or during any period following immediately thereafter, shall be deemed for the purposes of the Personal Injuries (Emergency Provisions) Act, 1939, and any scheme thereunder to be performed in the course of the performance by him of his duties under the order. [539]

5.—(1) For the purposes of these Regulations the following expressions have the meanings hereby respectively assigned to them—

“appropriate authority,” in relation to any premises to which an order made under Regulation three of these Regulations applies, means such authority as may for the time being be prescribed as the appropriate authority for those premises ;

“appropriate department,” in relation to any such premises as aforesaid, means such government department, authority or person as may for the time being be prescribed as the appropriate department for those premises ;

“civil defence services” means any ambulance, civil defence messenger, decontamination, first aid, report and control, rescue, or warden service, and also includes, in relation to premises for which a fire brigade service is maintained, that fire brigade service, and the expression “civil defence duties” shall be construed accordingly ;

“fire guard duties” means the duty of keeping a watch for the fall of incendiary bombs and for any fire occurring as a result of hostile attack, the duty of combating any such fire and the duty of reporting any such fire and where necessary summoning assistance, and includes the duty of being in readiness to perform any such duties as aforesaid and of maintaining fire guard equipment and supplies of water :

Provided that, in the case of any person holding a responsible fire guard appointment, the said expression means such duties in connection with the organisation and leadership of fire guards as may be prescribed ;

“local authority” means the Common Council of the City of London, the council of a metropolitan borough or the council of a county borough or county district ;

“the Minister” means the Minister of Home Security ;

“paid fire guard” means a person employed by the occupier of, or the appropriate department for, premises to which an order made under Regulation three of these Regulations applies to perform fire guard duties under arrangements in force for those premises under such an order for remuneration other than a subsistence allowance :

“period of four weeks” means the period of four weeks beginning at 12 noon on such date as may be prescribed, and any period of four weeks beginning at 12 noon on a date exactly four weeks, or an exact multiple of four weeks, after the said prescribed date ;

“prescribed” means specified in an order made under these Regulations or in directions given or an agreement made under any such order ;

“residential premises” means any premises occupied wholly or mainly for residential purposes, including premises occupied as a hotel, boarding house or lodging house, and “non-residential premises” shall be construed accordingly :

Provided that any premises occupied partly as a shop or farm and any premises occupied as a hotel, boarding house or lodging house at which more than five persons (including the occupier and members of his family) are employed or occupied in the business of the hotel, boarding house or lodging house shall not be deemed to be residential premises ;

“shop” has the same meaning as in the Shops Acts, 1912 to 1938 ;

“working hours,” in relation to any person (other than a paid fire guard) who works at non-residential premises to which an order under Regulation three of these Regulations applies, means any period during which that person is employed or occupied in any business, trade or profession carried on at those premises or for any other purposes for which the premises are used, and, in relation to a paid fire guard who works at any such premises, means any period during which that person is employed to perform fire guard duties for remuneration other than a subsistence allowance.

(2) For the purpose of these Regulations, a person employed or occupied in any business, trade or profession carried on at any premises to which an

order made under Regulation three of these Regulations applies or for any other purposes for which such premises are used, being a person whose work is not performed at those premises, shall—

- (a) if the conditions of his work normally require him to attend at any such premises at the beginning or end of his daily period of work, be deemed to work at those premises ;
- (b) if the conditions of his work do not require him to attend as aforesaid but require him to report regularly at any such premises at least once a week, be deemed to work at those premises ;

and, for the purposes of this paragraph, a constable who is required, when coming on duty, to report by telephone to any police premises, shall be deemed to report at those premises.

(3) For the purpose of these Regulations, the Inner Temple and the Middle Temple shall be deemed to be in the area of the Common Council of the City of London. [540]

6. These Regulations shall, in their application to Scotland, have effect subject to the following modifications :—

- (a) paragraph (8) of Regulation two and paragraph (11) of Regulation three shall not apply ;
- (b) the expression “ local authority ” means a county council or town council ;
- (c) the expression “ the Minister ” means the Minister of Home Security or the Secretary of State. [541]

7. These Regulations shall, in their application to Northern Ireland, have effect subject to the following modifications :—

- (a) for references to the National Fire Service there shall be substituted references to the National Fire Service (Northern Ireland) ;
- (b) any reference to a government department shall include a reference to a department of the Government of Northern Ireland ;
- (c) the expression “ local authority ” means the council of a county borough or other borough or urban district, or of a rural district ;
- (d) the expression “ the Minister ” means the Secretary of State ;
- (e) the expression “ shop ” has the same meaning as in the Shops Act, 1912.” [542]

2.—(1) Any order made, authority, notice or directions given, or thing done, under Regulation twenty-six A, Regulation twenty-seven A or Regulation twenty-seven B of the Defence (General) Regulations, 1939, shall, if it is in force immediately before the coming into operation of this Order and could have been made, given or done under a corresponding provision of these Regulations, continue in force and be deemed to have been made, given or done under that corresponding provision.

(2) Any reference in any document to the said Regulation twenty-six A, Regulation twenty-seven A or Regulation twenty-seven B or any provision thereof shall be construed as a reference to the corresponding Regulation or provision of these Regulations, and without prejudice to the generality of the foregoing provision the references in the Delegation of Powers (Ministry of Public Security for Northern Ireland) Order, 1942, to Regulation twenty-six A, Regulation twenty-seven A and Regulation twenty-seven B shall be construed as referring to these Regulations. [543]

3. Any order made under Regulation three of these Regulations may, if it applies to the Palace of Westminster, revoke the Defence (Palace of

Westminster Fire Prevention) Regulations, 1941, subject to such savings as may be specified in the order. [544]

- 4.—(1) Paragraph (2A) of Regulation twenty-nine B of the Defence (General) Regulations, 1939, is hereby revoked.
- (2) In the Third Schedule to the said Regulations, the references in the first column to Regulation twenty-six A and Regulation twenty-seven A respectively, and the entry in the second column relating to the said Regulation twenty-seven A, are hereby revoked. [545]

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## THE FIRE GUARD (LOCAL AUTHORITY SERVICES) ORDER, 1943

S. R. & O., 1943, No. 1043

July 28, 1943

In pursuance of the powers conferred upon me by Regulation two of the Defence (Fire Guard) Regulations, 1943, I hereby order as follows :—

### *Application of order*

1.—(1) If it appears to the Minister that, for the purpose of securing adequate fire guard services in the area of a local authority or any part thereof, it is expedient that this order should apply thereto, he may direct that this order shall apply to that area or part :

Provided that any such direction may, as respects any such area or part, provide that the provisions of this order relating to registration and compulsory enrolment (including the provisions of the Second, Third, Fourth and Fifth Schedules to this order) shall not apply to that area or part.

(2) References in this order to the area of a local authority shall, in a case where this order (whether including or excluding the said provisions relating to registration and compulsory enrolment) is applied to a part of such an area, be construed as referring only to that part, and references in the said provisions to an area to which this order applies shall not be construed as referring to any area or part thereof to which those provisions do not apply. [546]

### *Organisation, duties and training of fireguards*

2.—(1) For the purpose of organising and co-ordinating fire guard services in any area to which this order applies, the local authority for the area shall divide it into street fire party areas and into blocks (consisting wholly or mainly of business or government premises) and shall group the street fire party areas and blocks into sectors each of which shall comply with the following requirements, namely that the area of the sector shall not exceed one-sixteenth of a square mile and the distance between any two points in the sector shall not exceed eight hundred yards :

Provided that—

- (a) the Regional Commissioner may, as respects any area or part of an area to which this order applies, direct that sectors need not be constituted or that they need not comply with the said requirements ;
- (b) a single block may constitute a complete sector ;

- (c) where all the premises comprised in a sector are premises for which the same arrangements are in force under the Fire Guard (Business and Government Premises) Order, 1943, the sector need not comply with the said requirements.

(2) The local authority for any area to which this order applies shall, if it appears to them expedient for the purpose of making the best use of the available fire guards in their area or if the Regional Commissioner so directs, establish reserve centres or depots at which fire guards are to be available for the purpose of providing reinforcement, if required, for fire guards performing duties anywhere in the area.

(3) The local authority for any such area shall prepare a plan showing the sectors, street fire party areas, blocks, reserve centres and depots in their area, and shall send a copy of the plan to the Regional Commissioner, and, if they make any changes as respects the said sectors, street fire party areas, blocks, reserve centre or depots, the authority shall notify them in writing to the Regional Commissioner, and the Regional Commissioner may at any time give directions to any such local authority as to the manner in which they are to discharge their duty under the two last foregoing paragraphs and the local authority shall comply with those directions.

(4) Street fire party leaders, block leaders, reserve centre superintendents and depot superintendents shall be appointed to be in charge of all fire guards in street fire party areas, blocks, reserve centres and depots, respectively, and, where sectors are constituted, sector captains shall be appointed to be in charge of all fire guards in the sectors, and the provisions of the First Schedule to this order shall have effect as respect the said appointments.

(5) The local authority for any area to which this order applies shall secure that throughout the hours of darkness an adequate number of fire guards is on duty in every street fire party area in the said area and that at least one of those fire guards is required to be awake for the purpose of keeping watch and calling out the other fire guards on duty :

Provided that the Regional Commissioner may give directions to the local authority, as respects the whole of their area or such part or parts thereof as may be specified in the directions, that no fire guard shall be required, during such periods as may be so specified, to be awake for the purpose aforesaid or that, as respects any group of street fire party areas so specified, only one fire guard for the whole group shall be required during such periods to be awake for the purpose aforesaid.

(6) The local authority for any area to which this order applies may, subject to any such exemption or release from duty as is referred to in Article 10 of this order and subject (in the case of volunteers) to the terms on which they were enrolled, direct any person enrolled by them, other than officers appointed under paragraph (4) of this Article, for the performance of fire guard duties in their area,—

- (a) to perform such duties as a member of a street fire party formed for the protection of premises in the area other than premises for which arrangements under the Fire Guard (Business and Government Premises) Order, 1943, are in force ; or
- (b) to perform such duties at any premises as respects which a notice requesting assistance has been served under paragraph (8) of Article 15 of the Fire Guard (Business and Government Premises) Order, 1943 ; or
- (c) to perform such duties as a member of a reserve centre or depot ; or
- (d) to perform such duties for the protection of premises included in a block but not being premises for which arrangements under the

Fire Guard (Business and Government Premises) Order, 1943, are in force ;

and in giving directions under this paragraph the local authority shall secure that the available fire guards shall be disposed in such a manner as to afford protection to the area as a whole and in particular to such parts of the area as most require protection. [547]

3.—(1) The local authority for any area to which this order applies shall establish a system of mutual reinforcement by fire guards in the area, to be in operation at the times hereafter mentioned in this Article, and the system shall provide both for reinforcement within a particular sector and for the reinforcement of one sector by other sectors, and shall extend, subject to the provisions of the Fire Guard (Business and Government Premises) Order, 1943, to fire guards performing duties under that order :

Provided that the said system shall in the case of fire guards performing duties under the said order, only require them to combat fires occurring in their sector or in a street fire party area or block adjoining their sector, except when the system is in operation in accordance with sub-paragraph (b) of paragraph (3) of this Article after the signal that the raiders have passed has been given.

(2) If the Minister so directs, the local authority for any area to which this order applies shall establish in accordance with the directions, a system, to be in operation at the times hereafter mentioned in this Article, whereby fires occurring at any such times are reported through the sector organisation and the assistance of the National Fire Service is summoned through that organisation, and shall extend that system, subject to the provisions of the Fire Guard (Business and Government Premises) Order, 1943, to persons performing fire guard duties under that order :

Provided that any directions of the Minister under this paragraph may direct that the said system shall not apply to such parts of the area as may be specified in the directions.

(3) Any system established under this Article shall come into operation whenever an air raid warning or a hostile attack from the air occurs in the area during the hours of darkness and shall continue in operation—

- (a) in a case where no attack develops in the area, until the signal that the raiders have passed has been given ;
- (b) in a case where an attack develops in the area, until twelve hours after the said signal was given at the end of the attack or such earlier time as may, as respects the fire guards for the time being performing duties in any sector, be directed by the sector captain :

Provided that the Regional Commissioner may, as respects any area to which this order applies or any part or parts thereof, direct that this paragraph shall have effect as if there were substituted for the reference to the hours of darkness a reference to such part of those hours as may be specified in the directions. [548]

4.—(1) It shall be the duty of every person enrolled (whether compulsorily or voluntarily) by the local authority for any area to which this order applies for the performance of fire guard duties, subject to any such exemption or release from duty as is referred to in Article 10 of this order, to perform fire guards duties in accordance with this Article :

Provided that—

- (a) any person voluntarily enrolled may give not less than seven days' notice in writing terminating his services and, on the expiration of the notice, this Article shall cease to apply to him ;

(b) the periods for which a person compulsorily enrolled is required to perform such duties shall not in the aggregate exceed forty-eight hours in each period of four weeks.

(2) Any such person who is appointed sector captain, block leader, street fire party leader, reserve centre superintendent or depot superintendent shall perform such duties in connection with the organisation and leadership of fire guards in the area, at such time and place and in such manner, as may be directed by the local authority or by any person authorised by the local authority.

(3) Every other such person who is directed by the local authority under Article 2 of this order to perform fire guard duties otherwise than at premises to which the Fire Guard (Business and Government Premises) Order, 1943, applies, shall perform those duties and in doing so shall comply with any directions given by the street fire party leader, block leader, reserve centre superintendent or depot superintendent, as the case may be, or by the sector captain or other officer of higher rank under whose direction he is for the time being performing those duties, or by any person duly authorised to act on behalf of any of the said officers, and in particular shall comply with any directions so given for the purpose of operating any such system as is referred to in the last foregoing Article.

(4) Every other such person who is directed by the local authority under Article 2 of this order to perform fire guard duties at any premises to which the Fire Guard (Business and Government Premises) Order, 1943, applies, shall so long as the direction remain in force, be under the like obligation to perform fire guard duties under arrangements in force for the premises under the said order as fire guards who are required by that order to perform such duties. [549]

5.—(1) Where the National Fire Service have established a fire zone, that is to say a zone established for the purposes of controlling and combating an extensive fire or group of fires occurring within the zone as the result of hostile attack,—

(a) the member of the said service in charge of the fire zone shall, so long as the zone is established, be in control of all fire guards performing duties in any street fire party area or block wholly or partly situated in the zone, and all such fireguards shall comply with any directions given to them by the said member or by any other member of the said service performing duties in the zone ;

(b) any system established under paragraph (1) or paragraph (2) of Article 3 of this order shall be deemed to come into operation, as respects all such fireguards as aforesaid, when the fire zone is established, whether it is during the hours of darkness or not, and shall continue in operation until twelve hours after the signal that the raiders have passed was given at the end of the attack during which the fire or fires occurred or such earlier times as may be directed by the said member, and any such system shall be operated under the control of the said member.

(2) Where any members of the National Fire Service are present at a fire occurring in any street fire party area or block and the senior member of that service directing or supervising any fire fighter operations in the area or block is of a rank not below that of section leader, that member shall be in control of all fire guards in that area or block and, if any system established under paragraph (1) or paragraph (2) of Article 3 of this order is in operation, it shall be operated, so far as that street fire party area or block is concerned, under his control, and all such fire guards shall comply with any directions given to them by the said member.



(3) Where members of the National Fire Service are present at any fire in a street fire party area or block, but no member of the rank of section leader or higher is directing or supervising any fire fighting operations in the area or block, the street fire party leader or block leader shall render all practicable assistance to the members of the said service and may require any fire guard performing duties in the area or block to assist them, and any such fire guard shall, on being so required, comply with any directions given to him by any of the members of the said service as respects the combating of the fire or the summoning of assistance. [550]

6.—(1) It shall be the duty of the local authority for any area to which this order applies to provide instruction and training for all persons enrolled by them (whether voluntarily or compulsorily) for the performance of fire guard duties in their area (other than persons directed to perform fire guard duties at premises to which the Fire Guard (Business and Government Premises) Order, 1943, applies) in respect of the following matters :—

- (a) the characteristics of different types of incendiary bombs and other missiles likely to cause fire, and the methods of dealing therewith ;
- (b) the use of fire guard equipment and appliances, whether by individuals, teams or parties, and the maintenance of such equipment and appliances and of supplies of water ;
- (c) the methods of reporting fires and summoning assistance and in particular, if the system referred to in paragraph (2) of Article 3 of this order is established, that system ;
- (d) the situation of the sector control points, block control points and street fire party control points in the sector where the duties are to be performed and the routes from the sector control points to the nearest fire station or, if such a system as aforesaid is established, the fire station designated in accordance with that system ;
- (e) if the system referred to in paragraph (1) of Article 3 of this order is established, the method of giving mutual reinforcement in accordance with that system.

(2) The local authority shall also provide instruction and training for persons required to perform fire guard duties for the protection of particular premises, other than premises to which the Fire Guard (Business and Government Premises) Order, 1942, applies, as respects the following additional matters :—

- (a) the situation of any fire guard equipment and appliances and supplies of water available for use at the premises, and the situation and use of any hydrant and other appliances for controlling any supply of water available for use at the premises ;
- (b) the lay-out of the premises and in particular the roofs, and the methods of obtaining access to the roofs and other parts of the premises ;
- (c) the approaches to the premises.

(3) The local authority shall also provide additional instruction and training for persons performing fire guard duties at reserve centres or depots in the method of providing reinforcement from that centre to fire guards performing duties in the area.

(4) The local authority shall also provide instruction and training for persons appointed to the office of sector captain, block leader, street fire party leader, reserve centre superintendent or depot superintendent, and for such other persons as volunteer to receive it, as respects the following additional matters :—

- (a) the general topography of the sector including the lay-out of streets, the position of important buildings and special fire risks, and the situation of hydrants, pipe lines and supplementary water supplies;
- (b) the methods by which assistance may best be given to members of the National Fire Service in combating fires.

(5) Every person enrolled by any such local authority (whether compulsorily or voluntarily) for the performance of fire guard duties, other than a person directed to perform such duties at premises to which the Fire Guard (Business and Government Premises) Order, 1943, applies, shall comply with any directions requiring him to attend at a specified time and place for the purpose of receiving instruction and training provided under this Article, being directions given by a person entitled under Article 4 of this order to give him directions as to the performance of his fire guard duties, and shall also comply with any directions given to him in the course of the instruction and training by the person in charge thereof.

(6) The local authority may, and if the Regional Commissioner so directs shall, arrange fire guard training exercises for the purpose of establishing and promoting the efficient working of any system which they are required to establish under Article 3 of this order, and every person enrolled by the authority (whether compulsorily or voluntarily) for the performance of fire guard duties, other than a person directed to perform such duties at premises to which the Fire Guard (Business and Government Premises) Order, 1943, applies, shall comply with any directions given by a person entitled under Article 4 of this order to give him directions as to the performance of his fire guard duties requiring him to take part in any such exercise, and with any directions so given to him in the course of any such exercise.

(7) Every person directed under Article 2 of this order to perform fire guard duties at premises to which the Fire Guard (Business and Government Premises) Order, 1943, applies, shall, while the direction is in force, be under the like obligation to attend for instruction and training, to take part in training exercises, and to comply with directions given in the course of such instruction and training or such training exercises, as fire guards who are required by that order to perform fire guard duties at the said premises.

(8) For the purpose of calculating the aggregate periods for which any person compulsorily enrolled under this order is required to perform fire guard duties in any period of four weeks, any period for which he is required under this Article to attend for instruction and training or to take part in any training exercise shall be included. [551]

7.—(1) Where the Regional Commissioner has given directions under the proviso to paragraph (5) of Article 2 of this order as respects any area or part of an area of a local authority or any group of street fire party areas, the local authority shall keep a record of the names of persons performing fire guard duties under this order in that area or part or in any street fire party area included in that group, as the case may be, and of the times when they are on duty or attend for instruction and training in such duties, showing, in the case of any failure to be on duty or attend, the name of the person so failing, the reason for the failure and, if his place was taken by another person, the name of that other person.

(2) Where any person performing fire guard duties under this order, whether the Regional Commissioner has given any such directions as aforesaid which affect him or not, is required, on coming on duty or attending for instruction and training in such duties, to sign any register of attendances kept in a form approved by the local authority, he shall comply with that requirement.

(3) The foregoing provisions of this Article shall not apply to persons who are directed to perform fire guard duties at any premises to which the Fire Guard (Business and Government Premises) Order, 1943, applies, but without prejudice to any of the provisions of the said order. [552]

*Registration and compulsory enrolment*

8.—(1) The local authority for any area to which this order applies shall from time to time, by a notice published in the prescribed manner, require all persons, who at the date of the notice are registrable under this order, to make, at such place and time, in such manner and to such authority or person as may be specified in the notice, an application to be registered under this order and to furnish such particulars about themselves as may be so specified :

Provided that, except so far as may be otherwise directed by the Minister, the local authority shall not, by any such notice as aforesaid, require any person who is already registered by that authority under this order to apply or furnish particulars as aforesaid.

(2) The persons registrable under this order, in relation to any area to which this order applies, are persons (whether already registered under this order or not) who are resident in the area and, being male persons, have attained the age of 18 and not the age of 63 or, being women, have attained the age of 20 and not the age of 45 and who in either case are not persons of any of the classes referred to in the Second Schedule to this order.

(3) Where—

- (a) any person is, at the date when this order comes into operation, registrable under this order in relation to any area to which this order applies, but has not already been so registered ; or
- (b) any person becomes so registrable under this order by reason that he—
  - (i) begins to live in an area to which this order applies, or
  - (ii) attains the requisite age, or
  - (iii) ceases to be a person of any of the classes referred to in the Second Schedule to this order ;

he shall, within twenty-one days after the date on which this order comes into operation or he becomes so registrable, as the case may be, report that fact in writing to the local authority, and the authority shall, if he has not already been registered, thereupon serve a notice on him requiring him, within such period as may be specified in the notice, to make an application in writing to be registered under this order and to furnish such particulars about himself as may be so specified.

(4) The local authority shall register every person who makes an application to be registered under this order or is notified under the Fire Guard (Business and Government Premises) Order, 1943, to the authority as being a person who is not required to perform fire guard duties under that order, unless they have already so registered him or he is not registrable under this order.

(5) Where any person is convicted of failing to make an application to be registered under this order or to make a report under paragraph (3) of this Article, the local authority shall forthwith register him under this order :

Provided that this paragraph shall not apply to any person if at the date of the conviction he has ceased to be registrable under this order.

(6) A notice published or served under this Article is hereafter in this order referred to as a "registration notice".

(7) The local authority may issue a certificate of registration to every person registered by the authority under this order. [553]

9.—(1) A local authority may serve on any person registered by them under this order a notice stating that he has been enrolled for the performance of fire guard duties in the area of the authority, and thereupon he shall be deemed to have been so enrolled.

(2) A notice served under this Article is hereafter in this order referred to as “an enrolment notice”. [554]

10.—(1) Where any person registered under this order becomes a person of any of the classes referred to in the Second Schedule to this order, he shall be exempted from enrolment under this order or, if he has been so enrolled, shall be released from the duties required of him by virtue of his enrolment.

(2) The liability of any person registered under this order to be enrolled thereunder or to perform duties by virtue of such enrolment shall be subject to any exemption from such enrolment or release from such duties granted to him by or under the Fire Guard (Medical and Hardship Exemptions) Order, 1943, or the Third Schedule to this order.

(3) Where it appears to any government department that any person ought, having regard to the nature or length of hours of his work and to any circumstances affecting the public interest, to be exempted from duties under this order, they may grant to him a certificate of exemption, and any person registered by a local authority under this order who holds such a certificate or a certificate of exemption granted by any government department under paragraph 3 of Part I of the Second Schedule to the Fire Guard (Business and Government Premises) Order, 1943, shall be exempted from enrolment under this order or, if he has been so enrolled shall be released from the duties required of him by virtue of his enrolment.

(4) Where any person registered by a local authority under this order has attained, being a male person, the age of 63, or, being a woman, the age of 45, he or she shall be exempted from enrolment under this order or, if he or she has been so enrolled, shall be released from the duties required of him or her by virtue of his or her enrolment.

(5) Where—

(a) any person who is required by a local authority to apply for registration by a registration notice ceases, before the date on which he is required to make the application, to reside in the area of that authority; or

(b) any person enrolled by a local authority by an enrolment notice has ceased when the notice is served to reside in the area of that authority, or ceases at any time thereafter so to reside,

he shall be exempted from liability to apply for registration in accordance with that registration notice, or released from the duties required of him by virtue of that enrolment, as the case may be.

(6) Where any person has been compulsorily enrolled under this order by a local authority, he shall, if and so long as he is required to perform duties by virtue of that enrolment, be exempted from such enrolment by any other local authority.

(7) Where any person has been, or is liable to be, compulsorily enrolled by a local authority under this order and produces to that authority a certificate from another local authority stating that he has been appointed in a part-time capacity to be a fire guard officer, a deputy or assistant fire guard officer, a fire guard staff officer, an assistant fire guard staff officer, a fire guard area captain, a sector captain, a block leader, a street fire party

leader or a reserve centre superintendent, or a head fire guard, a senior fire guard or a depot superintendent, he shall, so long as he continues to hold any such appointment, be exempted from enrolment by the first mentioned authority, or, if he has already been so enrolled, released from the duties required of him by virtue of that enrolment.

(8) Where any person registered by a local authority under this order who has been exempted from enrolment under this order or released from the duties required of him by virtue of his enrolment, ceases to be entitled to that exemption or release, he shall, within twenty-one days after the date on which he ceases to be so entitled, report that fact in writing to the local authority. [555]

11.—(1) A certificate purporting to be signed by the clerk of a local authority and—

- (a) certifying that a person of the name and description specified in the certificate is registered under this order by that local authority;
- (b) certifying that an enrolment notice has been served on a person of the name and description so specified, and stating the contents of the notice and the date and mode of service thereof,

shall, unless the contrary is proved, be sufficient evidence of the facts stated in the certificate and be deemed to be signed by the said clerk.

(2) Where, in any criminal proceedings under this order, it is necessary to show that the defendant is or was at any particular time within particular limits of age, he shall be presumed to be or to have been at that time within those limits of age, unless the contrary is proved :

Provided that if it appears to the court that there are any special circumstances giving rise to doubt as to the matter aforesaid, the court may require the matter to be proved by the prosecution. [556]

12.—(1) The Minister may, as respects any area to which this order applies or any part of such an area, give directions that the provisions of the Fourth Schedule to this order (which provide for the registration and compulsory enrolment of persons working in an area to which the Schedule applies) shall apply to that area or part, and the said Schedule shall apply accordingly while the directions are in force :

Provided that the directions may exempt women from the provisions of the said Schedule and in that case, in relation to the said area or part, the Schedule shall not apply to women and any provision expressly relating to women shall not have effect.

(2) Where the occupier of any business premises for which the local authority is the appropriate authority fails to make arrangements for the premises under the Fire Guard (Business and Government Premises) Order, 1943, or makes arrangements that are disapproved by the appropriate authority, the appropriate authority may, instead of itself making arrangements for those premises under that order serve on the occupier a notice requiring him to make such a return as is required to be made by the occupiers of business premises in a special area to which the Fourth Schedule to this order applies, and accordingly the said Fourth Schedule shall apply, so far as applicable, in relation to those premises as if they constituted a special area to which that Schedule applied, but subject to the modification that any provision expressly relating to women and paragraphs 13 and 17 shall not apply. [557]

13.—(1) The provisions of this order, including the Fourth Schedule, relating to registration and compulsory enrolment shall not apply to any aliens except aliens who—

- (a) are registered under the Aliens Order, 1920, as subsequently amended, as nationals of any one of the states specified in the Fifth Schedule to this order or as stateless persons or as enemy aliens, or are British protected persons ; and
- (b) are for the time being exempted from Article 1 of the Aliens (Movement Restriction) Order, 1940, as subsequently amended, or are partly or conditionally exempted therefrom in such a manner as will enable them adequately to perform fire guard duties ;

and the said provisions shall not apply to any alien recognised by His Majesty as being a consul-general, consul, vice-consul or consular agent of any foreign Power accredited to His Majesty.

(2) An alien compulsorily enrolled under Article 9 of this order shall not be directed by the local authority to perform fire guard duties except as a member of the street fire party for the street fire party area in which he lives, but without prejudice to the power to direct him, in accordance with any system established under Article 3 of this order, to reinforce other fire guards, to report fires or to summon the assistance of the National Fire Service.

(3) An alien working at any non-residential premises in an area to which the Fourth Schedule to this order applies who is enrolled for the performance of fire guard duties in that area shall not be directed by the local authority to perform fire guard duties at any premises except the premises at which he works, and his performance of those duties shall be subject to any prohibition or restriction imposed by the appropriate authority or appropriate department for the premises under paragraph (4) of Article 12 of the Fire Guard (Business and Government Premises) Order, 1943, but this provision shall be without prejudice to the power to direct him when performing duties at the said premises, to reinforce other fire guards, to report fires or to summon the assistance of the National Fire Service, in accordance with any system established under Article 3 of this order.

(4) Every local authority shall keep a list of all the aliens who are for the time being enrolled by them, whether voluntarily or compulsorily, as fire guards, and the list shall be open to inspection by any constable.

(5) If the chief officer of police serves a notice on a local authority directing that any alien enrolled by that authority for fire guard duties shall not perform such duties, the local authority shall not, so long as the direction remains in force, require or allow that alien to perform those duties.

(6) Nothing in this Article shall be taken as prejudicing the immunities and privileges of an envoy of a foreign Power accredited to His Majesty or any member of the retinue of such an envoy or any person to whom those immunities and privileges are extended under section one or section two of the Diplomatic Privileges (Extension) Act, 1941. [558]

#### *Miscellaneous and General*

14.—(1) A local authority shall not make any agreement for the voluntary enrolment of any male person who has not attained the age of 16 or has attained the age of 70 or any girl or woman who has not attained the age of 18 or has attained the age of 60, except that the authority may, with the consent in writing of the person having charge or control of the boy or girl (otherwise than in the capacity of a schoolmaster or schoolmistress), enter into such an agreement with a boy of 15 years or a girl of 16 or 17 years.

(2) A local authority shall not make any agreement for the voluntary enrolment of any such person as is referred to in paragraph 9, paragraph 10 or paragraph 11 of the Second Schedule to this order. [559]



15. It shall be a defence to any proceedings in respect of any failure to comply with any requirement of this order as to the performance of duties, attendance for instruction and training or the taking part in training exercises for the person charged to prove that this failure was due to illness, hours of work or other reasonable cause. [560]

16.—(1) The Minister may, to such extent and subject to such restrictions as he thinks proper, delegate to a Regional Commissioner any functions exercisable by him under this order.

(2) The Minister may, if he thinks fit, direct that any powers conferred by this order specifically on the Regional Commissioner shall be exercised by the Minister instead of by the Regional Commissioner. [561]

17.—(1) In this order, except so far as the contrary is expressly provided, the following expressions have the meanings hereby respectively assigned to them, that is to say :—

“business premises” and “government premises” have the same meanings as in the Fire Guard (Business and Government Premises) Order, 1943 ;

“fire guard duties” has the same meaning as in Regulation five of the Defence (Fire Guard) Regulations, 1943 ;

“hours of darkness” means the period from half an hour before the hours of darkness, as defined for the purposes of the Lighting (Restrictions) Order, 1940 (other than Part III thereof), to half an hour after the said hours of darkness ;

“local authority” means, as respects England, the Common Council of the City of London, the council of a metropolitan borough, or the council of a county borough or county district, and, as respects Scotland, a county council or town council ;

“the Minister” means, as respects England, the Minister of Home Security, and, as respects Scotland, the Minister of Home Security or the Secretary of State ;

“period of four weeks” means the period of four weeks beginning at 12 noon on the 26th July, 1943, and any period of four weeks beginning at 12 noon on a date exactly four weeks, or an exact multiple of four weeks after the first mentioned date ;

“period of twelve weeks” means the period of twelve weeks beginning at 12 noon on the 26th July, 1943, and any period of twelve weeks beginning at 12 noon on a date exactly twelve weeks, or an exact multiple of twelve weeks, after the first mentioned date ;

“prescribed” means prescribed by directions given by the Minister.

(2) For the purposes of this order a person employed or occupied in any business, trade or profession carried on at any premises or for any other purposes for which the premises are used, being a person whose work is not performed at those premises, shall—

(a) if the conditions of his work normally require him to attend at any such premises at the beginning or end of his daily period of work, be deemed to work at those premises ;

(b) if the conditions of his work do not require him to attend as aforesaid but require him to report regularly at any such premises at least once a week, be deemed to work at those premises.

(3) For the purposes of his order, a whole-time constable attached to a police station shall be deemed to work at the police station to which he is attached and not elsewhere.



(4) For the purposes of this order the Inner Temple and the Middle Temple shall be deemed to be in the area of the Common Council of the City of London.

(5) Any reference in this order to all or any of the provisions of any other order shall be construed as a reference to those provisions as amended by any subsequent order or, if those provisions are revoked and re-enacted with or without modification, to the provisions so re-enacted. [562]

18.—(1) The Civil Defence Duties (Compulsory Enrolment) Order, 1942, and the Civil Defence Duties (Compulsory Enrolment) (City of London) (No. 2) Order, 1942, are hereby revoked.

(2) Any directions, notice, return, registration, exemption, release, certificate, application or thing, given, published, served, effected, granted, issued, made or done in the exercise of powers conferred by any provision of either of the said orders shall, if in force immediately before the coming into operation of this order, continue in force and be deemed to have been given, published, served, effected, granted, issued, made or done in the exercise of powers conferred by the corresponding provision of this order, and any reference in any document to either of the said orders or to any provision thereof shall be construed as including a reference to this order or to the corresponding provision of this order.

(3) Directions shall be deemed to have been given under paragraph (1) of Article 12 of this order applying the Fourth Schedule to this order to the City of London, with an exemption for women under the proviso to that paragraph, and shall be deemed to take effect on the date when this order comes into operation. [563]

19.—(1) This order may be cited as the Fire Guard (Local Authority Services) Order, 1943.

(2) This order shall come into operation on the twentieth day of September, nineteen hundred and forty-three. [564]

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### FIRST SCHEDULE

#### *Appointment of street fire party leaders, block leaders, reserve centre superintendents, depot superintendents and sector captains*

1. All street fire party leaders, reserve centre superintendents and depot superintendents shall be appointed by the local authority.

2.—(1) A block leader shall be appointed by the occupier of the business premises or the appropriate department for the government premises in the block or, if there are several such premises, by agreement between all the occupiers of the business premises and the appropriate departments for the government premises, and before any appointment is made under this paragraph, the local authority shall be given an opportunity to make representations with respect thereto.

(2) In the event of a failure to make such an appointment (whether as a result of lack of agreement or otherwise) within twenty-one days of a request in writing by the local authority to do so, the appointment shall be made by the local authority :

Provided that the local authority shall, at least seven days before making the appointment, notify to every such occupier or appropriate department the name of the person proposed to be appointed, and if, within seven days after receipt of the notice, any such occupier or appropriate department objects to that appointment and the objection is not subsequently withdrawn, the local authority shall not appoint that person and, if the authority is unable to find another person to whose appointment no objection is made under this proviso, the appointment shall be made by the Minister .

3.—(1) Where all the premises included in a sector are business or government premises and the same arrangements apply to all of them, the sector captain shall be appointed by the occupier of the business premises or the appropriate department for the government premises or, if there are several such premises, by agreement between all the occupiers of the business premises and appropriate departments for the government premises, and, in the event of a failure to agree on the person to be appointed, he shall be appointed by the Minister.

(2) In all other cases the sector captain shall be appointed by the local authority :

Provided that, where the sector comprises business or government premises which are not all included in the same arrangements, the local authority shall, at least seven days before appointing the sector captain, notify in writing to every occupier of or appropriate department for such premises the name of the person proposed to be appointed, and if, within seven days of the receipt of the notice, any occupier or appropriate department objects to that appointment and the objection is not subsequently withdrawn, the local authority shall not appoint that person and, if the authority is unable to find another person to whose appointment no objection is made under this proviso, the appointment shall be made by the Minister.

4. Any occupier of business premises or appropriate department for government premises who appoints or joins in the appointment of a block leader or sector captain shall notify to the local authority the name of any sector captain or block leader so appointed or shall secure that such a notification is made, and no such appointment shall be terminated without notifying the local authority.

5. Any person who is appointed a street fire party leader, block leader, reserve centre superintendent, depot superintendent or sector captain in any area, shall, if he is not already enrolled for fire guard duties by the local authority, be deemed to be so enrolled. [565]

## SECOND SCHEDULE

### *Persons exempted from registration*

1. Any member of the armed forces of the Crown (including a member of the Women's Royal Naval Service, the Auxiliary Territorial Service, the Women's Auxiliary Air Force, the Home Guard or the Auxiliary Coastguard, but not including any person who has not been called out for, or has been released from, actual service).

2. Any member of the naval, military or air forces of any foreign Power engaged in alliance with His Majesty, in any war in which His Majesty is also engaged.

3. Any member of the Royal Observer Corps.

4. Any whole-time member of the National Fire Service.

5. Any person who is—

(a) a member of a police force within the meaning of section thirty of the Police Pensions Act, 1921 or a joint police force established under the Defence (Amalgamation of Police Forces) Regulations, 1942 ; or

(b) a member of the police war reserve ; or

(c) a special constable appointed under any of the provisions of the Special Constables Act, 1831, as amended by the Special Constables Acts, 1914 and 1923, or appointed under section one hundred and ninety-six of the Municipal Corporations Act, 1882 ;

(d) a special constable appointed under the provisions of the Special Constables (Scotland) Act, 1892 to 1923, as amended by Regulation 40AB of the Defence (General) Regulations, 1939, or under the corresponding provisions of any local Act ;

(e) a special constable appointed under section three of the Special Constables Act, 1923, as extended by Regulation 40AA of the Defence (General) Regulations, 1939 ; or

(f) a member of the women's auxiliary police corps.

6. Any pilot holding a licence issued under the Pilotage Act, 1913, or a deep sea certificate granted by a pilotage authority authorised by a Pilotage Order to grant such certificates.

7. Any duly qualified medical practitioner.
8. Any master or member of the crew of a ship engaged in sea-going service.
9. Any person who—
  - (a) is the subject of an order or inquisition under the Lunacy and Mental Treatment Acts, 1890 to 1920; or
  - (b) is being detained in pursuance of section twenty-five of the Lunacy Act, 1890, or as a criminal lunatic, or in pursuance of an order made under the Criminal Lunatics Act, 1884; or
  - (c) is undergoing treatment as a temporary patient under section five of the Mental Treatment Act, 1930; and
  - (d) is a person placed in an institution or a certified house or under guardianship under section three of the Mental Deficiency Act, 1913, or is the subject of an order under section six, eight or nine of that Act, or is under supervision provided under paragraph (b) of section thirty of that Act, or is an inmate of a home approved under section fifty of that Act, or is the subject of a notification under subsection (2) of section fifty-one of that Act; or
  - (e) is the subject of an order or warrant for his detention or custody under the Lunacy (Scotland) Acts, 1857 to 1919, or is being entertained and kept in an asylum in pursuance of section fifteen of the Lunacy (Scotland) Act, 1866, as read with section fifty-nine of the Mental Deficiency and Lunacy (Scotland) Act, 1913, or is a person for whose safe custody during His Majesty's pleasure His Majesty is authorised to give order or is a person whom the Secretary of State or the Prisons Department for Scotland has, in pursuance of any Act, directed to be removed to a criminal lunatic asylum or to the criminal lunatic department of Perth prison or to an asylum, or is a person placed in an institution or certified house or under guardianship under section four of the Mental Deficiency and Lunacy (Scotland) Act, 1913, or is the subject of an order under section seven, nine or ten of that Act.
10. Any person certified by a local authority, as defined by the Blind Persons Acts, 1920 and 1938, to be registered as a blind person under arrangements made by the authority under those Acts.
11. Any deaf and dumb person.
12. Any person of any such class as may be prescribed. [566]

### THIRD SCHEDULE

#### *Persons exempted from duties*

#### PART I

#### *Exemptions relating to women*

1. Any woman registered by a local authority under this order shall be exempted from duties under this order except duties as a member of the street fire party for the street fire party area in which she lives, but without prejudice to the power to direct her in accordance with any system established under Article 3 of this order to reinforce other fire guards, to report fires or to summon the assistance of the National Fire Service.
2. Any woman registered by a local authority under this order shall be exempted from duties under this order during any period throughout which a child (whether her own or not) under the age of fourteen is wholly or mainly in her care and is living and sleeping where she lives and sleeps.
3. Any woman registered by a local authority under this order who produces to that authority a certificate signed by a duly qualified medical practitioner or by a certified midwife certifying that she is pregnant shall be exempted from duties under this order during the period of pregnancy and for six weeks thereafter.

## PART II

*Persons performing National Fire Service and civil defence duties*

1. Any person registered by a local authority under this order who is a part-time member of the National Fire Service and produces to that authority a certificate signed by—

- (a) in the case of a member of a Fire Force, a member of that Force of a rank designated by the Fire Force Commander not below the rank of section leader,
- (b) in any other case, the Chief Regional Fire Officer or a member of the National Fire Service of a class designated by the Secretary of State,

stating that, at the date when the certificate was issued he was performing duties as a part-time member of the National Fire Service for periods amounting in the aggregate to not less than forty-eight hours in each period of four weeks, shall, so long as he continues to perform duties as such a member for such periods, be exempted from duties under this order.

2. (1) Any person registered by a local authority under this order who has undertaken to perform whole-time duties as a member of a civil defence service organised by a local authority, a county council or a harbour authority and produce (where necessary) a certificate to that effect issued under this paragraph shall, so long as he continues to perform whole-time duties as a member of a civil defence service (whether organised by that authority or county council or by any other authority or county council), be exempted from duties under this order.

(2) Any person registered by a local authority under this order who before the date on which this order comes into operation has undertaken to perform duties as a part-time member of a civil defence service organised by a local authority, a county council or a harbour authority for periods amounting in the aggregate to not less than forty-eight hours in each period of four weeks and produces (where necessary) a certificate to that effect issued under this paragraph shall, so long as he continues to perform such duties either for the periods aforesaid or for such less periods as the local authority, county council or harbour authority by whom the civil defence service is organised decide, with the approval of the Regional Commissioner, to be sufficient, having regard to the nature of the duties performed, to justify exemption from fire guard duties, be exempted from duties under this order.

(3) The production of a certificate under the foregoing provisions of this paragraph shall be necessary where the civil defence service concerned is not organised by the local authority by whom the person was registered and the certificate shall be issued by the local authority, county council or harbour authority by whom the civil defence service is organised and shall be produced to the local authority by whom the person was registered.

3. Any person registered by local authority under this order who produces to that authority a certificate signed by or on behalf of the Minister of Health stating that he is a member of the river emergency service of the Port of London Authority and has undertaken to perform duties as such a member for periods amounting in the aggregate to not less than forty-eight hours in each period of four weeks shall, so long as he continues to perform such duties for such periods, be exempted from duties under this order.

4. Any person registered by a local authority under this order who has, in compliance with directions given under paragraph (1) of Regulation twenty-nine BA of the Defence (General) Regulations, 1939, entered the service of a local authority, within the meaning of that Regulation, or a harbour authority for employment in a capacity to which Regulation twenty-nine B of the said Regulation applies or who has in pursuance of a requirement under sub-paragraph (d) of paragraph (1) of the said Regulation twenty-nine B taken up part-time employment in any such capacity as aforesaid shall, so long as he continues to be so employed for periods amounting in the aggregate to forty-eight hours in each period of four weeks or for such less periods as the local or harbour authority by whom he is employed decide, with the approval of the Regional Commissioner, to be sufficient having regard to the nature of the duties performed, to justify exemption from fire guard duties, be exempted from duties under this order.

5. Any person registered by a local authority under this order who is a member of the civil defence reserve or who, having been called up under section two of the National Service Act, 1941, is serving with the civil defence reserve shall, so long as he continues to be such a member or so to serve, be exempted from duties under this order.

6. Any person registered by a local authority under this order who produces to that authority a certificate signed by or on behalf of the Minister of Health or the Secretary of State for Scotland stating that he is enrolled by a government department, a local authority, a county council or a harbour authority, or any body or person having the management of a hospital, for the purpose of giving assistance without remuneration in connection with the admission or transference of patients in pursuance of arrangements made by the Minister of Health or the Secretary of State for Scotland under paragraph (a) of subsection (1) of section fifty of the Civil Defence Act, 1939, and that at the date of the certificate he was in attendance for giving such assistance for periods amounting in the aggregate to forty-eight hours in each period of four weeks shall, so long as he continues to be in attendance for such periods, be exempted from duties under this order.

7. Any woman registered by a local authority under this order, who produces to that authority a certificate signed by or on behalf of the Minister of Health or the Secretary of State for Scotland stating that she is a member of the American Ambulance (Great Britain), shall, so long as she continues to be such a member, be exempted from duties under this order.

### PART III

#### *Persons exempted by virtue of the nature of their work or duty at business premises or government premises*

1.—(1) Where in the case of any person registered by a local authority under this order, there is produced to that authority a certificate stating that he is required or has agreed in accordance with Articles 13 to 15 of the Fire Guard (Business and Government Premises) Order, 1943, to perform, and performs, outside his working hours duties under arrangements in force for any premises under the said order (other than premises to which Article 17 or Article 18 of the said order applies), he shall, so long as the certificate is in force and he continues to perform those duties, be exempted from duties under this order.

(2) In this paragraph the reference to the performance by a person of duties outside his working hours shall—

- (a) in the case of a person who performs duties under arrangements in force under the Fire Guard (Business and Government Premises) Order, 1943, by reason that he lives at residential premises to which the arrangements apply and
- (b) in the case of a person who voluntarily agrees to perform duties under arrangements in force under the said order for the Palace of Westminster or for any building prescribed as being a building the preservation of which or of the contents of which appears to the Minister to be in the public interest by reason of its historic or national character or otherwise (other than a person who works at the Palace of Westminster or the said building),

be construed as referring to the performance by that person of duties under those arrangements at any time.

2. Where, in the case of any person registered by a local authority under this order, there is produced to that authority a certificate stating that he works at premises to which Article 17 or Article 18 of the Fire Guard (Business and Government Premises) Order, 1943, applies, and performs outside his working hours duties under arrangements in force for those premises for periods amounting in the aggregate to such number of hours in a period of four weeks as may be specified in the certificate, then, so long as the certificate is in force and he continues to perform those duties outside his working hours, the maximum of forty-eight hours for which he may be required to perform duties under this order shall be reduced by the number of hours specified in the certificate.

3. Where, in the case of any person registered by a local authority under this order who works at non-residential premises to which the Fire Guard (Business and Government Premises) Order, 1943, applies, there is produced to that authority a certificate stating that he performs at or in connection with those premises outside his working hours duties (other than fire guard duties) undertaken to forestall or mitigate the effects of hostile attack for periods amounting in the aggregate to not less than forty-eight hours in each period of four weeks, he shall, so long as the certificate is in force and he continues to perform those duties for those periods, be exempted from duties under this order :

Provided that this paragraph shall not apply to any premises for which arrangements have been made or amended under Part III of the Fire Guard (Business and Government Premises) Order, 1943, so as to include provision for civil defence services.

4.—(1) Where, in the case of any male person registered by a local authority under this order who works at premises to which the Fire Guard (Business and Government Premises) Order, 1943, applies, there is produced to that authority a certificate stating that the premises where he works are industrial premises used for vital work and that he is employed at those premises, or at those premises and other industrial premises, upon such work for exceptionally long hours, and that he ought to be exempted from duties under this order, he shall, so long as the certificate is in force and he continues to be so employed, be exempted from the said duties.

(2) For the purposes of this paragraph a person shall be deemed to work at any premises if he is employed in repairing or constructing a ship in connection with the purposes for which those premises are used.

5. Where, in the case of any woman registered by a local authority under this order who works at any non-residential premises to which the Fire Guard (Business and Government Premises) Order, 1943, applies, there is produced to that authority a certificate stating that she is employed at those premises, or at those premises and other non-residential premises, for exceptionally long hours and that she ought to be exempted from duties under this order, she shall, so long as the certificate is in force and she continues to be so employed, be exempted from the said duties.

6.—(1) Where in the case of any person registered by a local authority under this order who works at premises to which the Fire Guard (Business and Government Premises) Order, 1943, applies, there is produced to that authority a certificate stating that the premises where he works are industrial premises and that he is liable to be recalled outside his working hours without notice for urgent duties connected with his employment, he shall, so long as the certificate is in force, be exempted from duties under this order, except duties as a member of the street fire party for the street fire party area in which he lives, and, if he is so recalled, he shall be released from duties as such a member during the period for which he is recalled.

(2) Any person who has produced such a certificate shall, so long as the certificate is in force, not be required in connection with the operation of any system established under Article 3 of this order to perform any fire guard duties outside the street fire party area in which he lives.

7. Where, in the case of any person registered by a local authority under this order who works at any non-residential premises to which the Fire Guard (Business and Government Premises) Order, 1943, applies, there is produced to that authority a certificate stating that he is a constable, other than a person referred to in paragraph 5 of the Second Schedule to this order, and ought to be exempted from duties under this order, he shall, so long as the certificate is in force, be exempted from the said duties.

8. Where, in the case of any person registered by a local authority under this order who works at any non-residential premises to which the Fire Guard (Business and Government Premises) Order, 1943, applies, there is produced to that authority a certificate that he is employed on night work, then, so long as the certificate is in force and he continues to be so employed, the following provisions shall have effect :—

- (a) if the certificate specifies that he is ordinarily employed for every week in night work, or is ordinarily employed in night work on not less than twenty nights in twenty-eight, he shall be exempted from all duties under this order ;



- (b) if the certificate specifies that he is employed in night work on a weekly shift system for three weeks in four, or for two weeks in three, or for three weeks in five, or is ordinarily employed in night work on not less than fifteen and not more than nineteen nights in twenty-eight, the maximum of forty-eight hours in a period of four weeks for which he may be required to perform duties under this order (less any deduction made under paragraph 2 of this Part of this Schedule) shall be reduced by thirty-six hours ;
- (c) if the certificate specifies that he is employed in night work on a weekly shift system for one week in two, or for two weeks in five, or for one week in three, or is ordinarily employed in night work on not less than eight and not more than fourteen nights in twenty-eight, the said maximum shall be reduced by twenty-four hours ;
- (d) if the certificate specifies that he is employed in night work on a weekly shift system for one week in four, or is ordinarily employed in night work on not less than five and not more than seven nights in twenty-eight, the said maximum shall be reduced by twelve hours ;
- (e) if the certificate specifies that he is employed in night work on a system which involves his employment therein for periods consisting of at least four consecutive weeks and specifies the weeks in which he will be so employed during the period covered by the certificate, the said maximum shall, as respects any period of four weeks (as defined by this order), be reduced by twelve hours for each week (if any) for which he is so employed during that period of four weeks.

For the purposes of this paragraph—

- (i) a person shall be deemed to be employed in night work on any night if he performs not less than four hours of work, exclusive of any interval for a meal or a rest, between the hours of 10 p.m. and 6 a.m. on that night ;
- (ii) a person shall not be deemed to be employed in night work for any week unless he is so employed on at least five nights in that week ;
- (iii) the expression “ week ” means the period between midnight on Sunday night and midnight on the succeeding Sunday night, except that, in a case where the system of work is based upon a seven-day period beginning and ending at times differing from those aforesaid, it means that period.

*Formal provisions as to certificates*

9. Any certificate issued under this Part of this Schedule shall—

- (a) if it is issued during the first four weeks of any period of twelve weeks, expire at the end of that period of twelve weeks ;
- (b) if it is issued during the last eight weeks of any period of twelve weeks, expire at the end of the next period of twelve weeks :

Provided that a certificate may from time to time be endorsed so as to cover a further period of twelve weeks, and any such endorsement shall, so far as practicable, be made not less than four weeks and not more than eight weeks before the date on which the certificate would otherwise expire, and in the case of a certificate issued under paragraph 2 or paragraph 8 of this Part of this Schedule, the particulars specified in the endorsement shall for the purposes of that paragraph be deemed to be substituted for the particulars specified in the certificate.

10.—(1) Any such certificate issued in respect of any person for the purposes of paragraph 1, paragraph 2 or paragraph 8 of this Part of this Schedule, and any endorsement of any such certificate, shall be in the prescribed form and—

- (a) if the premises where the said person performs duties or is employed in night work are business premises, shall be signed by the occupier of the premises, or by a person authorised by him with the approval of the appropriate authority for the premises, or by a person of a class so authorised ;
- (b) if the said premises are government premises, shall be signed by a person authorised by or on behalf of the appropriate department for the premises, or by a person of a class so authorised.



(2) Any other certificate issued under this Part of this Schedule in respect of any person, and any endorsement of any such certificate, shall be in the prescribed form and—

- (a) if the said person works at business premises, shall be signed by a person authorised by the appropriate authority for the premises or by a person of a class so authorised ;
- (b) if he works at government premises, shall be signed by a person authorised by or on behalf of the appropriate department for the premises, or by a person of a class so authorised :

Provided that a certificate issued for the purposes of paragraph 3 or paragraph 6 of this Part of this Schedule in respect of a person working at business premises shall, if the appropriate authority is a local authority, be signed by or on behalf of the Regional Commissioner.

#### PART IV

##### *Persons employed in certain services*

1.—(1) Any person registered by a local authority under this order who holds a commission in the Royal Naval Volunteer Reserve, the Territorial Army Reserve, or the Royal Air Force Volunteer Reserve and is posted for duty (whether whole-time or part-time) with any of the following cadet organisations, that is to say, a University Naval Division, the Sea Cadet Corps, the Senior Training Corps, the Junior Training Corps, the Army Cadet Force or the Air Training Corps, shall be exempted from duties under this order except duties as a member of the street fire party for the street fire party area in which he lives.

(2) Any person registered by a local authority under this order, not being a person referred to in the foregoing sub-paragraph, who

- (a) is enrolled in one of the said cadet organisations for duty as an instructor ; or
- (b) is in whole-time employment and is a cadet enrolled in one of the said cadet organisations.

and, in either case, produces to the authority a certificate from the officer commanding the unit to which he is attached stating that, at the time when the certificate was issued, he was so enrolled and was attending the unit on not less than three days a week for the purpose of performing duties as an instructor or, as the case may be, as such a cadet, and that it is expedient for the efficient performance of the said duties that he should be exempted from duties under this order shall, so long as he continues to be so enrolled and so to attend and (in the case of a cadet) to be in whole-time employment, be exempted from duties under this order except duties as a member of the street fire party for the street fire party area in which he lives.

(3) Nothing in this paragraph shall prevent any person being directed in accordance with any system established under Article 3 of this order, to reinforce other fire guards, to report fires or to summon the assistance of the National Fire Service.

2.—(1) Where any person registered by a local authority under this order produces to that authority a certificate signed by or on behalf of a government department stating that he is a member of a voluntary organisation which has undertaken to provide services for that department and that he is liable to be called away without notice for urgent duties in connection with that organisation, that person shall, so long as he continues to be liable to be so called away, be exempted from duties under this order except duties as a member of the street fire party for the street fire party area in which he lives and, if he is so called away, he shall be released from duties as a member of that street fire party during the period for which he is called away.

(2) Any person who has produced such a certificate shall, so long as he continues to be liable to be called away as aforesaid, not be required in connection with the operation of any system established under Article 3 of this order to perform any fire guard duties outside the street fire party area in which he lives.

3. Where any person registered by a local authority under this order is employed as a prison officer or as an officer, nurse or attendant in any mental institution, as hereafter defined in this Schedule, and produces to that authority a certificate signed

by a person, or by a person of a class authorised by or on behalf of the government department, local authority, county council, body or person having the control or management of the prison or institution, as the case may be, stating that he is so employed and is required to stand by at premises forming part of the prison or institution for periods outside his hours on actual duty amounting in the aggregate to not less than forty-eight hours in each period of four weeks, he shall, so long as he continues to stand by for such periods, be exempted from duties under this order.

4.—(1) Any person registered by a local authority under this order who is ordinarily engaged whole time in nursing the sick or is a midwife ordinarily engaged whole time in the practice of midwifery, shall, so long as that person is so engaged, be exempted from duties under this order.

(2) In this paragraph the expression "midwife" means a certified midwife or a woman whose name is entered on the register of pupils maintained by the Central Midwives Board or the Central Midwives Board for Scotland.

5. Where any person registered by a local authority under this order who is employed at any premises forming part of a public utility undertaking or petroleum installation, being premises to which the Fire Guard (Business and Government Premises) Order, 1943, applies, produces to that authority a certificate signed by a person, or by a person of a class authorised by or on behalf of the appropriate authority, or as the case may be, the appropriate department for the premises, stating that at the date of the certificate he is so employed in an essential capacity and is required to stand by elsewhere than where he lives for periods when he is not actually at work amounting in the aggregate to not less than forty-eight hours in each period of four weeks, he shall, so long as he continues to stand by for such periods, be exempted from duties under this order.

6. The Minister may by directions make provision for the exemption from duties under this order of such classes of persons as may be specified in the directions, to such extent and subject to such conditions as may be so specified.

## PART V

### *Interpretation*

1. Any person who is exempted under this Schedule from duties under this order shall, so long as the exemption remains in force, be exempted from enrolment under this order or, if he has been so enrolled, released from the duties required of him by virtue of his enrolment.

2. In this Schedule the following expressions have the meanings hereby respectively assigned to them, that is to say—

"certified midwife" means a woman certified under the Midwives Acts, 1902 to 1936, or the Midwives (Scotland) Acts, 1915 and 1927, and a woman who is deemed to be a certified midwife by virtue of Regulation thirty-three of the Defence (General) Regulations, 1939 ;

"civil defence service" means any ambulance, civil defence messenger, decontamination, first aid, report and control, rescue or warden service, or any service combining any of the purposes of any such services as aforesaid ;

"mental institution" means, as respects England, the Broadmoor Criminal Lunatic Asylum, any institution within the meaning of the Mental Treatment Act, 1930, or any institution, certified house or approved home within the meaning of the Mental Deficiency Act, 1913, and, as respects Scotland, any criminal lunatic asylum or any institution or certified house within the meaning of the Mental Deficiency and Lunacy (Scotland) Act, 1913, or any asylum within the meaning of the Lunacy (Scotland) Acts, 1857 to 1919 ;

"residential premises" has the same meaning as in the Defence (Fire Guard) Regulations, 1943 ;

"working hours" has the same meaning as in the Defence (Fire Guard) Regulations, 1943, except that it includes any break for food or rest not exceeding one and a half hours in the course of a period of work. [567]

## FOURTH SCHEDULE

*Registration and compulsory enrolment in special areas*

1. The local authority for any area or part of an area to which this Schedule applies (hereafter in this Schedule referred to as "the special area") may from time to time—

- (a) by notice published in accordance with paragraph 5 hereof, require every person who is at the date of the notice the occupier of business premises (other than residential premises) in the special area to make a return under this Schedule with respect to those premises ;
- (b) by notice served on the occupier of any such business premises in the special area or on the appropriate department for any government premises (other than residential premises) in the special area, require that occupier or department to make a return under this Schedule with respect to those premises.

2. Every such return shall be made within such period and in such manner as may be specified in the notice and shall specify the persons who, at the date of the notice, were registrable under this Schedule or, as the case may be, shall state that there are no such persons.

Provided that, except so far as may be otherwise directed by the notice, no person shall be included in such a return if he has been already registered under this Schedule by the local authority.

3. The persons registrable under this Schedule in relation to any premises are persons (whether already registered under this Schedule or not) who work at the premises and, being male persons, have attained the age of 18 and not the age of 63 or, being women, have attained the age of 20 and not the age of 45 and who in either case are not persons of any of the classes referred to in the Second Schedule to this order :

Provided that—

- (a) a woman shall not be registrable under this Schedule by reason only that she is employed part-time at any premises, whether by the week or the day or otherwise, as a charwoman ;
- (b) a woman who is directed by the Minister of Labour and National Service to take up a part-time employment at any such premises shall not be registrable under this Schedule.

4. Returns made under this Schedule shall give as respects every person included therein the following particulars—

- (a) his name, age and date of birth, national registration number and place of residence ;
- (b) whether he intends to make an application or claim under the Fire Guard (Medical and Hardship Exemption) Order, 1943, or under the Third Schedule to this order, for exemption from enrolment under this Schedule, together with such particulars of the intended application or claim as may be specified in the notice, or whether he has made such an application or claim or has obtained such exemption ;
- (c) such other particulars as may with the approval of the Minister be so specified.

5. Any such notice as is referred to in sub-paragraph (a) of paragraph 1 of this Schedule shall be published by posting copies thereof in conspicuous places in the special area, or in such other manner as may be approved by the Minister, and any such notice as is referred to in sub-paragraph (b) of the said paragraph 1 may be served on the occupier of any business premises or the appropriate department for government premises in addition to any other mode of service, by delivering it or sending it by post addressed to the occupier or department at those premises.

6. Where any person becomes registrable under this Schedule by reason that he—

- (a) begins to work at any non-residential premises in the special area ; or
- (b) attains the requisite age ; or
- (c) ceases to be a person of any of the classes referred to in the Second Schedule to this order ;

the occupier of the premises, if they are business premises, or the appropriate department for the premises, if they are government premises, shall, within one month, make a return to the local authority stating that fact and giving as respects that person the particulars referred to in paragraphs (a) and (b) of paragraph 4 of this Schedule and such other particulars as were specified in the last notice published under paragraph 1 of this Schedule.

7. Any person as respects whom a return is made under this Schedule shall be registered by the local authority under this Schedule unless they have already so registered him or he is not registrable under this Schedule.

8. The local authority may issue a certificate of registration to every person registered by the authority under this Schedule.

9. Any obligation imposed by or under this Schedule on the occupier of any business premises in the special area to make a return shall not extend to the local authority in respect of premises occupied by them, but the local authority shall register under this Schedule all persons who would have fallen to be included by them in a return under the foregoing provisions of this Schedule in respect of any business premises so occupied, if the authority had been in respect thereof under the like obligation under the said provisions as other occupiers of business premises in the area.

10. Articles 9 to 11 of this order and the Second and Third Schedules to this order shall apply to persons registered under this Schedule, subject to the following modifications :—

- (a) paragraphs (5), (6) and (8) of Article 10 shall not apply ;
- (b) in the case of a person who has been, or is liable to be, compulsorily enrolled by a local authority by virtue of this Schedule, paragraph (7) of the said Article 10 shall have effect as if the references to a block leader and a street fire party leader were omitted ;
- (c) in sub-paragraph (2) of paragraph 2 of Part II of the Third Schedule for the date mentioned in that sub-paragraph there shall be substituted the 18th January, 1941, in the case of male persons, and the 15th August, 1942, in the case of women ;
- (d) paragraph 1 of Part III of the said Schedule shall be omitted ;
- (e) where a certificate issued under paragraph 8 of Part III of the said Schedule specifies that a person registered by a local authority under this Schedule is ordinarily employed for every week in night work, or is ordinarily employed in night work on not less than twenty nights in twenty-eight, he may be required to perform duties by virtue of his enrolment under this Schedule on not more than one night in any week, being a night on which he is employed in night work, for a period beginning not earlier than 5 p.m. and ending when his work begins for the night or for a period beginning after this work has finished for the night and ending not later than 8 a.m. on the morning following that night, so, however, that the periods for which he may be required to perform duties as aforesaid shall not in the aggregate exceed twelve hours in each period of four weeks.

11. Any person registered by a local authority under this Schedule who has ceased to work at any non-residential premises in the area, shall, so long as he continues not to work at any such premises, be exempted from enrolment by that authority under this Schedule or, if he has been so enrolled, be released from the duties required of him by virtue of his enrolment.

12. Any person registered by another local authority under Article 8 of this order who produces to that authority a certificate from the local authority for the special area that he is required, by virtue of his enrolment under this Schedule, to perform fire guard duties under this order in the special area or has undertaken to perform such duties for periods amounting in the aggregate to not less than forty-eight hours in each period of four weeks, shall, so long as the certificate is in force and he continues to perform the said duties or, as the case may be, the said duties for the said periods, be exempted from enrolment by that other authority or, if he has been so enrolled, be released from the duties required of him by virtue of such enrolment.

13. A person compulsorily enrolled by virtue of this Schedule to perform fire guard duties in the special area shall not be directed under Article 2 of this order to perform fire guard duties outside the special area, but without prejudice to the power to direct him, in accordance with any system established under Article 3 of this order, to reinforce other fire guards, to report fires or to summon the assistance of the National Fire Service.

14. An enrolment notice served on any person by virtue of this Schedule may, in addition to any other mode of service, be served on that person by delivering it or sending it by post addressed to him at any premises at which he has been returned under this Schedule as working.

15. Where any person registered by a local authority under this Schedule—

- (a) ceases to work at any non-residential premises in the special area ;
- (b) becomes a person of any of the classes referred to in the Second Schedule to this order ; or
- (c) ceases to be entitled to any exemption or release from duties granted to him under the Fire Guard (Medical and Hardship Exemptions) Order, 1943, or the Third Schedule to this order ;

the occupier of the premises, if they are business premises, or the appropriate department for the premises, if they are government premises, shall, within one month, notify the local authority in writing.

16. It shall be the duty of every person who works at any business premises or government premises in the special area to furnish to the occupier of, or, as the case may be, the appropriate department for, those premises, such particulars about himself as may be required to enable any return or notification to be made in accordance with this Schedule, or, in the case of premises occupied by a local authority, such particulars about himself as may be required to enable them to determine whether he should or should not be registered by them under this Schedule.

17. This Schedule—

- (a) shall not apply to any government premises which do not require assistance from the local authority under paragraph (8) of Article 15 of the Fire Guard (Business and Government Premises) Order, 1943, except those as respects which the appropriate department agree that it shall apply ; and
- (b) shall not apply to any business premises, as respects which the Minister directs that it shall not apply, being premises for which the appropriate authority is not the local authority and which do not require assistance from the local authority under paragraph (8) of the said Article 15.

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#### FIFTH SCHEDULE

*States referred to in Article 13 of order*

Argentina.	The Netherlands.
Belgium.	Nicaragua.
Brazil.	Poland.
Cuba.	Salvador.
Greece.	Switzerland.
Guatemala.	Turkey.
Honduras.	The United States of America.
Iceland.	Venezuela.
Iran.	Yugoslavia.

[569]

## THE FIRE GUARD (BUSINESS AND GOVERNMENT PREMISES) ORDER, 1943

*S. R. & O., 1943, No. 1044*

*July 28, 1943*

### ARRANGEMENT OF ARTICLES

#### PART I

*Fire guard arrangements for premises to which order applies*

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2. Duty to make arrangements.
3. Power to include in joint arrangements premises to which order would not otherwise apply.
4. Amendment and substitution of arrangements.
5. Procedure for making and approving arrangements and amendments of arrangements for business premises.
6. Procedure for making and approving arrangements and amendments of arrangements for government premises.
7. Report of inability to make or carry out arrangements for business premises.
8. Report of inability to make or carry out arrangements for government premises.
9. Powers of appropriate authority in default of occupier's arrangements for business premises.

#### PART II

*Duties under arrangements or in relation to arrangements*

10. Obligation to perform fire guard duties during working hours.
11. Obligation to perform fire guard duties outside working hours.
12. Aliens.
13. Selection of persons to perform fire guard duties outside working hours.
14. Partly exempt persons.
15. Provisions where there is a deficiency of men.
16. Provisions where area is not a compulsory enrolment area.
17. Special provisions where system of selection unsuitable.
18. Special provisions for police premises, National Fire Service premises and civil defence premises.
19. Release of persons required to perform urgent duties.
20. Modification of order as respects special areas and premises.
21. Performance of duties by paid fire guards.
22. Allocation and organisation of fire guard duties.
23. Control of fire guards in certain circumstances by National Fire Service.
24. Training.
25. Subsistence allowance and travelling expenses.
26. Duty of occupier and appropriate department to establish fire posts and provide equipment, bedding, etc.
27. Powers of appropriate authority in relation to duties of occupier.
28. Powers of appropriate department.

#### PART III

*Provision of services other than fire guard services*

29. Duty to include other services in arrangements.

## PART IV

*Miscellaneous and General*

30. Record of attendances and defaults.
  31. Illness or other reasonable cause to be a defence.
  32. Validity and proof of arrangements.
  33. Information.
  34. Change of occupation of premises, etc.
  35. Appropriate authority for business premises.
  36. Appropriate department for government premises.
  37. Power of Minister to determine whether premises are government premises.
  38. Application of order to Palace of Westminster.
  39. Delegation of functions.
  40. Interpretation.
  41. Application to Scotland.
  42. Revocation.
  43. Transitional provisions.
  44. Short title and commencement.
- First Schedule. Provisions as to joint and combined arrangements.  
 Second Schedule. Persons exempted from duties.  
 Third Schedule. States referred to in Article 12 of order.

In pursuance of the powers conferred upon the Minister of Home Security by Regulation three of the Defence (Fire Guard) Regulations, 1943, I hereby order as follows :—

## PART I

*Fire guard arrangements for premises to which order applies*

1.—(1) This order shall apply to—

- (a) all premises occupied by or for the purposes of a government department and situated in any such area as may be prescribed, except residential premises ;
- (b) all police premises situated in any such area as aforesaid ;
- (c) all other premises situated in any such area as aforesaid, except residential premises and unoccupied premises ;
- (d) such other premises, or classes or descriptions of premises (which may include residential premises and unoccupied premises wherever situated), as may be prescribed ;
- (e) the Royal Palace of Westminster :

Provided that there shall be excepted from sub-paragraph (a), sub-paragraph (b) and sub-paragraph (c) hereof such of the premises therein referred to, or such classes or descriptions of those premises, as may be prescribed.

(2) The power of prescribing premises and classes or descriptions of premises under sub-paragraph (d) of, or the proviso to, the foregoing paragraph shall—

- (a) in the case of premises occupied by or for the purposes of the Admiralty, the War Department, or the Air Ministry, be exercisable by that department ;
- (b) in the case of any other government premises, be exercisable by the Minister ;
- (c) in the case of any other premises, be exercisable, as respects particular premises, by the Regional Commissioner and, as respects a class or description of premises, by the Minister.



(3) This order shall also apply to any premises as respects which an agreement is made or directions are given by virtue of Article 3 of this order for the purpose of including the premises in joint arrangements made under this order. [570]

2.—(1) Subject to the provisions of this order, every occupier of business premises and every appropriate department for government premises shall, in accordance with the following provisions of this Part of this order, make proper and adequate arrangements for the purpose of securing that fires occurring at the premises as the result of hostile attack will be immediately detected and combated, and all such arrangements shall in particular provide for securing that—

- (a) an adequate number of fire posts is established at the premises ;
- (b) an adequate number of persons, which may vary at different times, is at all times available at the premises or, in such special circumstances as may be specified in the arrangements, is liable to be called to the premises, if required, for the purpose of manning the fire posts and fire guard appliances ;
- (c) one or more (according to the nature, extent or situation of the premises) of the persons available or liable as aforesaid is or are at all times awake for the purpose of keeping watch and calling out the other persons to man the posts and appliances ;
- (d) fire guard equipment (including helmets, eye shields and armlets) and fire guard appliances sufficient to meet requirements when the fire posts are fully manned, are at all times available at the premises ; and
- (e) an adequate supply of water is kept at the premises.

(2) An occupier of business premises or an appropriate department for government premises may, for the purpose of carrying out the duty imposed by the last foregoing paragraph, either—

- (a) make arrangements applying to the said premises only ; or
- (b) make with the occupier of any other business premises or the appropriate department for any other government premises joint arrangements for the said premises and those other premises, all the premises being adjoining or neighbouring premises or premises in the same building ; or
- (c) in the case of an occupier of, or an appropriate department for, several business or government premises to which this order applies, whether or not they are adjoining or neighbouring premises or premises in the same building, make combined arrangements for those premises, so, however, that, except in the case of police premises and without prejudice to the operation of any such system as is mentioned in Article 22 of this order, no person shall be required under those arrangements without his consent to perform fire guard duties at any premises which are more than two miles from the premises at which he works.

(3) The occupier of any business premises (with the approval of the appropriate authority for those premises) and the appropriate department for any government premises, may treat different parts of the premises as if they were separate premises and may make separate arrangements for those different parts, and this order shall accordingly apply to those different parts as if they were separate premises.

(4) Agreements may be made for joint arrangements applicable both to business and government premises but shall, so far as any business premises are concerned, require the approval of the appropriate authority for the

business premises and such an agreement may be entered into by the appropriate authority for any business premises, in lieu of the occupier thereof, and shall be binding on the occupier, and every agreement for the making of such joint arrangements shall provide that while the agreement is in force either—

- (a) all the premises are to be deemed to be business premises ; or
- (b) all the premises are to be deemed to be government premises ;

and this order shall apply to them accordingly, and joint arrangements shall be made for all the premises to which the agreement relates.

Such an agreement shall not be terminated by an occupier of business premises without the approval of the appropriate authority, or by an appropriate department without the approval of the Minister.

(5) The appropriate authority for any group of business premises, being adjoining or neighbouring premises or premises in the same building, may give directions to the occupiers of those premises to make joint arrangements therefor, and they shall make joint arrangements accordingly :

Provided that where any such directions affect premises for which the appropriate authority is a local authority, the occupier of the premises may, within seven days from the date on which the directions were given, appeal by notice in writing to the Regional Commissioner, and the Regional Commissioner may, on any such appeal, confirm, revoke, or modify the directions so far as they affect the said premises, and shall notify his decision in writing to the local authority and the occupier of the premises.

(6) Where it appears to the Minister that joint arrangements ought to be made for a group of business premises he may, notwithstanding that not all the premises are adjoining or neighbouring premises or premises in the same building, give directions to the occupiers of the premises to make joint arrangements therefor, and they shall make joint arrangements accordingly, so, however, that, without prejudice to the operation of any such system as is mentioned in Article 22 of this order, no person shall be required under those arrangements without his consent to perform fire guard duties at any premises which are more than two miles from the premises at which he works.

(7) Where the appropriate authority for any business premises is also the appropriate department for any government premises, all the said premises being adjoining or neighbouring premises or premises in the same building, it may give directions that, while the directions are in force, either—

- (a) all the premises are to be deemed to be business premises ; or
- (b) all the premises are to be deemed to be government premises ;

and this order shall apply to them accordingly, and joint arrangements shall be made for all the premises to which the direction relates.

(8) The occupier of any police premises may agree with the occupiers of any other business premises adjoining or neighbouring to the police premises, subject to the approval of the appropriate authority or authorities for all the premises, that, while the agreement is in force—

- (a) the other premises are to be deemed to be police premises in the same occupation as the police premises aforesaid ; and
- (b) the persons working or (in the case of section houses) living at the police premises are to be deemed to work or live, and to be the only persons working or living, at the said other premises ;

and this order shall have effect subject to the agreement, and arrangements shall be made for all the premises to which the agreement relates.

(9) The provisions of the First Schedule to this order shall have effect as respects joint and combined arrangements. [571]

3.—(1) Where, in the case of any premises to which this order does not apply, being premises adjoining or neighbouring to business or government premises, it appears to the authority or department which would be the appropriate authority or appropriate department for the said premises if the order applied thereto, that joint arrangements should be made under this order for the said premises and the said business or government premises, the authority or department may treat the premises as if this order applied thereto and accordingly may exercise any of the following powers under the provisions of the last foregoing Article, that is to say :—

- (a) in a case to which paragraph (4) of that Article is applicable, may approve or make agreements for such joint arrangements under that paragraph ;
- (b) in a case to which paragraph (5) or paragraph (7) of that Article is applicable, may include the said premises in directions given under those respective paragraphs :

Provided that direction given by a local authority under the said paragraph (5) shall not include such premises as aforesaid, unless the consent of the Regional Commissioner has been obtained.

(2) The Minister may, in giving directions under paragraph (6) of the last foregoing Article with respect to a group of business premises, include in the group any premises which would be business premises if this order applied thereto.

(3) Where any agreement is made or directions are given by virtue of this Article for the purpose of including in joint arrangements any premises to which this order would not otherwise apply, this order shall apply to those premises while the agreement or directions is or are in force.

(4) The powers conferred by this Article shall not be exercised with respect to any premises prescribed under the proviso to paragraph (1) of Article 1 of this order. [572]

4.—(1) The occupier of any business premises or the appropriate department for any government premises for which arrangements are in force under this order may at any time make in accordance with the next following Article amendments of the arrangements which do not involve any alteration as to the premises to which the arrangements apply.

(2) The appropriate authority for any business premises for which arrangements are in force under this order may at any time, by notice in writing served on the occupier of the premises, make amendments of the arrangements which do not involve any alteration as to the premises to which the arrangements apply, and the amendments shall take effect as from a date specified in the notice, not being less than three days after the service of the notice, and sub-paragraph (11) of the next following Article shall apply in a case where the appropriate authority is a local authority.

(3) Any person working at any non-residential premises or living at any residential premises for which arrangements are in force under this order or any representative of any such person may represent to the occupier of or appropriate department for the premises that the arrangements ought to be amended under paragraph (1) of this Article, and the occupier or appropriate department shall consider any such representations with a view to exercising his or its powers under that paragraph, and if the occupier, in the case of business premises, refuses to amend the arrangements, the person making the said representation may make representations in writing to the appropriate authority that the arrangements ought to be amended, and the appropriate authority shall consider those representations with a view to exercising its powers under the last foregoing paragraph to amend the arrangements.

(4) The powers conferred by paragraphs (2) to (9) of Article 2 of this order and by Article 3 of this order may be exercised for the purpose of making new arrangements for premises for which arrangements are already in force as well as for the purpose of making arrangements for premises for which no arrangements are in force, and where any such new arrangements are made for any premises, any arrangements previously in force for those premises shall—

- (a) if they applied to those premises only, cease to be in force as from the date on which the new arrangements come into force, whether provisionally or otherwise ;
- (b) if they applied to other premises also, apply as from the said date to those other premises only. [573]

5.—(1) Every occupier of business premises shall, in the case of non-residential premises, consult with the persons working at the premises or, in the case of residential premises, with the persons living at the premises, or, in either case, with their representatives with respect to any arrangements to be made under this order for those premises and any amendments of such arrangements and the manner in which any such arrangements are to be carried out, and, not less than three days before the date on which he intends to consult as aforesaid the occupier shall display at the premises in a prominent position where it can be easily read a notice of his intention to consult and the time and place of the consultation.

(2) Every such occupier shall notify in writing to the appropriate authority any arrangements or amendments of arrangements made by him for the premises under this order, and the notification shall—

- (a) give all necessary particulars as to the matters referred to in paragraph (1) of Article 2 of this order including particulars as to the extent (if any) to which duties under the arrangements will be performed by paid fire guards, and
- (b) include a statement by the occupier that he has complied with the last foregoing paragraph, and, in a case where he has consulted representatives, a list of the names of those representatives.

(3) In the case of—

- (a) arrangements required to be made on the coming into operation of this order for premises for which no arrangements are then in force ;
- (b) arrangements required to be made on the subsequent application of this order to premises to which it did not previously apply ;
- (c) arrangements required to be made for any premises by reason that arrangements previously in force for those premises have ceased to be in force, otherwise than as the result of the making of new arrangements therefor ; and
- (d) arrangements required to be made in pursuance of an agreement made or directions given under paragraph (4), paragraph (5), paragraph (6), or paragraph (7) of Article 2 of this order ;

the arrangements shall be made and notified to the appropriate authority in accordance with the last foregoing paragraph within twenty-one days from the date when this order comes into operation, or becomes applicable to the premises, or the date when the old arrangements cease to be in force or the date when the said agreement is made or the said directions are given, as the case may be.

(4) On or before the date on which any arrangements or amendments are notified to the appropriate authority, the occupier—

(a) in a case where he has consulted representatives, shall send or deliver to every representative a copy of the arrangements or amendments as so notified ;

(b) in a case where any of the persons working at any non-residential premises to which the arrangements apply have not been represented by representatives, shall, in addition to his obligation (if any) under the foregoing sub-paragraph, cause at least one copy of the arrangements or amendments as so notified to be displayed at the premises in a prominent position where it can be easily read by those persons ;

and representations with respect to the arrangements may be made in writing to the appropriate authority by any representative who has been consulted or by any person working or living at the premises who has not been represented by a representative.

(5) The appropriate authority may approve, with or without modifications, any such arrangements or amendments notified to it, or may disapprove them, but the appropriate authority shall not approve or disapprove them before the expiration of seven days from the date on which they were notified and shall, before approving or disapproving the arrangements or amendments, consider any representations made under the last foregoing paragraph within the said period, and shall notify its approval or disapproval in writing to the occupier and to any persons who have made representations within the said period :

Provided that if, in a case where representations have been made within the said period, the authority considers it necessary or expedient that the arrangements or amendments should be carried out forthwith, the authority may, before it has considered or fully considered the representations, provisionally approve the arrangements or amendments, with or without modifications, and notify its provisional approval in writing to the occupier and to the persons who have made the representations.

(6) Where any such arrangements or amendments have been provisionally approved under the last foregoing paragraph, the appropriate authority shall without delay consider, or complete its consideration of, the said representations and shall, not later than the expiration of one month from the date on which it notified its provisional approval or of such further periods (not exceeding one month in any case) as it may from time to time notify in writing to the occupier and the persons who made the said representations, finally approved (with or without modifications) or disapprove the arrangements or amendments and shall notify its approval or disapproval accordingly :

Provided that if, at the expiration of three months from the date on which its provisional approval was notified, the appropriate authority has not notified its final approval or disapproval, the occupier of the premises or any of the persons who made the said representations may make an application in writing—

(a) in the case of premises for which the appropriate authority is a local authority, to the Regional Commissioner ;

(b) in any other case, to the Minister ;

and the Regional Commissioner or the Minister may require the appropriate authority to refer the arrangements or amendments to him.

Where an application is made to the Regional Commissioner or the Minister under this paragraph, the person making the application shall, on the day on which he makes it send or deliver a copy thereof to the appropriate authority.

(7) Where any such arrangements or amendments have been approved (otherwise than provisionally) by an appropriate authority which is a local authority, the occupier or any of the persons who made representations within the period mentioned in paragraph (5) of this Article may, within seven days from the date on which he was notified of the approval, appeal by notice in writing to the Regional Commissioner, and shall, within the said period, send or deliver a copy of the notice to the appropriate authority.

(8) Where any such arrangements or amendments after being provisionally approved are referred to the Regional Commissioner or the Minister, or an appeal is made to the Regional Commissioner from the final approval of any such arrangements or amendments, the Regional Commissioner or the Minister shall either—

(a) finally approve the arrangements or amendments, whether in the form in which they were approved by the appropriate authority (provisionally or otherwise) or in a modified form; or

(b) disapprove the arrangements or amendments,

and shall notify his decision in writing to the appropriate authority, the occupier and any persons who made representations within the period mentioned in paragraph (5) of this Article.

(9) The appropriate authority, the Regional Commissioner or the Minister may, before reaching a final decision with respect to any such arrangements or amendments, refer them back, either generally or as respect particular matters, for further consultation between the occupier of the premises and the persons working or living at the premises or their representatives, and may direct that a representative of the authority, the Regional Commissioner or the Minister, as the case may be, shall take part in the consultation, and the occupier may, as the result of the further consultation, alter the arrangements or amendments and notify them in writing as altered to the appropriate authority, the Regional Commissioner or the Minister, as the case may be, and paragraphs (4) to (8) of this Article shall apply in relation to the altered arrangements or amendments subject to the modification that, in a case where they are notified to the Regional Commissioner or the Minister, for the references to the appropriate authority there shall be substituted references to the Regional Commissioner or the Minister and the provisions relating to references and appeals shall not apply.

(10) Where any such arrangements or amendments have been approved by the appropriate authority under this Article (whether provisionally or finally), they shall come into force as from a date specified by the authority when notifying the approval to the occupier, not being less than three days after the date on which it was so notified, and if the arrangements or amendments are subsequently disapproved or approved in a modified or altered form under this Article, they shall cease to be in force or, as the case may be, shall have effect in the modified or altered form, as from a date specified by the authority, the Regional Commissioner or the Minister when notifying the disapproval or approval to the occupier, not being less than three days after the date on which it was so notified.

(11) Where any arrangements for business premises are amended under the last foregoing Article by an appropriate authority which is a local authority, the occupier of the premises or any person working at non-residential premises or living at residential premises to which the arrangements apply or any representative of any such person may, within fourteen days from the date on which the amendments were notified to the occupier, appeal by notice in writing to the Regional Commissioner, and the Regional Commissioner may, on any such appeal approve the amendments with or without modifications or may disapprove them so far as they relate to the said premises, and



shall notify his decision in writing to the appropriate authority and the occupier of the premises, and, if the appeal was brought by any other person, to that person ; and, if the amendments are modified or disapproved, they shall have effect in the modified form or, as the case may be, shall cease to be in force, as from a date specified by the Regional Commissioner when notifying his decision to the occupier, not being less than three days after the date on which the decision was notified.

(12) While any arrangements for any business premises are in force under this order, the occupier of any premises to which the arrangements apply (other than residential premises) shall cause at least one copy of the arrangements as for the time being approved to be displayed at the premises in a prominent position where it can easily be read. [574]

6.—(1) The appropriate department for any government premises shall, in the case of non-residential premises, consult with the persons working at the premises or, in the case of residential premises, with the persons living at the premises, or, in either case, with their representatives with respect to any arrangements to be made under this order for those premises and any amendments of any such arrangements, and the manner in which any such arrangements are to be carried out, and, not less than three days before the date on which it intends to consult as aforesaid, the department shall display at the premises in a prominent position where it can be easily read a notice of its intention to consult and the time and place of the consultation.

(2) In the case of—

- (a) arrangements required to be made on the coming into operation of this order for premises for which no arrangements are then in force ;
- (b) arrangements required to be made on the subsequent application of this order to premises to which it did not previously apply ;
- (c) arrangements required to be made for any premises by reason that arrangements previously in force for those premises have ceased to be in force, otherwise than as the result of the making of new arrangements therefor ; and
- (d) arrangements required to be made in pursuance of an agreement or direction made or given under paragraph (4) or paragraph (7) of Article 2 of this order ;

the arrangements shall be made within twenty-one days from the date when this order comes into operation, or when it becomes applicable to the premises, or when the old arrangements cease to be in force, or when the said agreement is made or the said directions are given, as the case may be.

(3) The appropriate department for any government premises, on or before the date on which any arrangements are made for the premises under this order, or any such arrangements are amended, shall—

- (a) in a case where it has consulted representatives, send or deliver to every representative a notice specifying the arrangements or amendments and giving all necessary particulars as to the matters referred to in paragraph (1) of Article 2 of this order including particulars as to the extent (if any) to which duties under the arrangements will be performed by paid fire guards ;
- (b) in a case where any of the persons working at any non-residential premises to which the arrangements apply have not been represented by representatives, shall, in addition to its obligation (if any) under the foregoing sub-paragraph, cause at least one such notice as aforesaid to be displayed at the premises in a prominent position where it can be easily read by those persons ;



and representations with respect to the arrangements or amendments may be made in writing to the appropriate department by any representative who has been consulted or by any person working or living at the premises who has not been represented by a representative.

(4) The appropriate department for any government premises shall not bring any arrangements or amendments into force before the expiration of seven days from the date on which they were made and shall, before bringing them into force, consider any representations made under the last foregoing paragraph within the said period :

Provided that if, in a case where representations have been made within the said period, the appropriate department considers it necessary or expedient that the arrangements or amendments should be carried out forthwith, the department may, before it has considered or fully considered the representations, provisionally bring the arrangements or amendments into force, with or without modifications, and give notice thereof in writing to the persons who have made the representations.

(5) Where any such arrangements or amendments have been provisionally brought into force under the last foregoing paragraph, the appropriate department shall without delay consider, or complete its consideration of, the said representations and shall, not later than the expiration of one month from the date on which it notified the provisional bringing into force of the arrangements or amendments or of such further periods (not exceeding one month in any case) as it may from time to time notify in writing to the persons who made the said representations, finally bring the arrangements or amendments into force with or without modifications :

Provided that if any such provisional arrangements or amendments remain in force for a period exceeding three months from the said date, the appropriate department shall report the fact to the Minister and the reasons therefor.

(6) Before any such arrangements or amendments are brought into force, whether provisionally or finally, the appropriate department shall notify in writing to every person who has made representations within the period specified in paragraph (4) of this Article the date on which the arrangements or amendments are to come into force, not being less than three days after the notification, and shall, in the case of non-residential premises, at the same time cause the like notice to be displayed at the premises in a prominent position where it can be easily read.

(7) While any arrangements for any government premises are for the time being in force under this order, the appropriate department for any premises to which the arrangements apply (other than residential premises) shall cause at least one copy of the arrangements to be displayed at the premises in a prominent position where it can be easily read.

(8) Where an agreement made under paragraph (4) of Article 2 of this order or directions given under paragraph (7) of the said Article provide that all the premises are to be deemed to be government premises this Article shall have effect with the following additions and modifications :—

- (a) the appropriate department shall consult with the occupier of any premises which are deemed to be government premises with respect to any arrangements for the premises and any amendments thereof and the manner in which any such arrangements are to be carried out ;
- (b) the consultations with the persons working or living at the premises or their representatives shall be carried out by the occupier on behalf of the appropriate department ;

- (c) the appropriate department shall send or deliver to the occupier as well as to the persons referred to in paragraph (3) of this Article a copy of the arrangements or amendments and representations may be made in writing to the appropriate department under that paragraph by the occupier as well as by those persons ;
- (d) any notices required to be given under paragraphs (4), (5) and (6) of this Article to persons who have made representations shall also be given to the occupier, whether he has made representations or not ; and
- (e) the duty imposed by sub-paragraph (b) of paragraph (3) and paragraph (7) of this Article shall be carried out by the occupier. [575]

7.—(1) Where the occupier of any business premises is required to make any such arrangements as are referred to in paragraph (3) of Article 5 of this order (except sub-paragraph (d) thereof), he may, within the period of twenty-one days mentioned in that paragraph, report in writing to the appropriate authority that he is unable to make arrangements for the premises under this order, stating the grounds of his inability, and, if the appropriate authority is satisfied as to his inability, it shall notify him in writing accordingly, and he shall thereupon be relieved from his obligation to make and notify arrangements for those premises under this order, but without prejudice to any obligation arising by virtue of any such agreement or directions aforesaid subsequently given or made with respect to the premises.

(2) The occupier of any business premises for which arrangements are in force under this order may at any time report in writing to the appropriate authority that he is unable to carry out the arrangements or to notify any practicable amendments thereof or new arrangements in substitution therefor, stating the grounds of his inability, and, if the appropriate authority is satisfied as to his inability, it shall notify him in writing accordingly, and thereupon the arrangements shall cease to be in force as from such date as may be specified in the notice.

(3) In any criminal proceedings against the occupier of any business premises for failing to carry out any such arrangements, it shall be a defence for him to prove—

- (a) that, before the institution of the proceedings, he made under paragraph (2) of this Article a report in writing to the appropriate authority of his inability to carry out the arrangements or to notify any practicable amendments thereof or new arrangements in substitution therefor ; and
- (b) either that he has been notified by the appropriate authority that it is satisfied as to his said inability or that he has not been notified by the said authority that it is not so satisfied. [576]

8.—(1) Where the appropriate department for any government premises is required under the foregoing provisions of this order to make any such arrangements as are referred to in paragraph (2) of Article 6 of this order, the department may, within the period of twenty-one days mentioned in that paragraph, report in writing to the Minister that it is unable to make arrangements for the premises under this order, stating the ground of its inability.

(2) The appropriate department for any government premises for which arrangements are in force under this order may at any time report in writing to the Minister that it is unable to carry out the arrangements or to make any practicable amendments thereof or new arrangements in substitution therefor, stating the grounds of its inability. [577]

## 9.—(1) If—

- (a) the occupier of any business premises fails to notify in writing to the appropriate authority for those premises, within the period mentioned in paragraph (3) of Article 5 of this order, any such arrangements as are referred to in that paragraph, whether or not he reports inability to do so under Article 7 of this order ;
- (b) the occupier of any business premises is notified in writing by the appropriate authority, the Regional Commissioner or the Minister that arrangements notified by him, other than new arrangements proposed to be substituted for existing arrangements, are disapproved ; or
- (c) arrangements cease to be in force for any business premises by virtue of paragraph (2) of Article 7 of this order ;

the appropriate authority may itself make the necessary arrangements for the premises, and shall notify them in writing to the occupier of the premises, and the arrangements shall come into force as from a date specified by the authority when notifying the arrangements as aforesaid, not being less than three days after the date on which the arrangements were so notified.

(2) Where the appropriate authority has power under the last foregoing paragraph to make separate arrangements for several premises, being adjoining or neighbouring premises or premises in the same building, the appropriate authority may make joint arrangements for all the premises.

(3) Nothing in the foregoing provisions of this Article shall prejudice any criminal proceedings against any occupier or business premises for any failure to make and notify arrangements for the premises in accordance with this order.

(4) Where the appropriate authority for any business premises for which arrangements are made under this Article, is a local authority, the occupier of the premises or any person working at non-residential premises or living at residential premises to which the arrangements apply or any representative of any such person may, within fourteen days from the date on which the arrangements were notified to the occupier, appeal by notice in writing to the Regional Commissioner, and the Regional Commissioner may, on any such appeal, approve the arrangements with or without modifications, or may disapprove them, and shall notify his decision in writing to the appropriate authority and the occupier of the premises and, if the appeal was brought by any other person, to that person ; and, if the arrangements are modified or disapproved, they shall have effect in the modified form or, as the case may be, shall cease to be in force, as from a date specified by the Regional Commissioner when notifying his decision to the occupier, not being less than three days after the date on which the decision was notified. [578]

## PART II

*Duties under arrangements or in relation to arrangements*

10.—(1) It shall be the duty of all persons working at any non-residential premises for which arrangements are in force under this order who have attained, in the case of male persons, the age of 18 and not the age of 63 or, in the case of women, the age of 20 and not the age of 45, to perform during their working hours such fire guard duties under the arrangements, at such time and place and in such manner, as may be directed under this order :

Provided that—

- (a) this paragraph shall not apply to any person who is wholly exempt from the performance of the said duties during his working hours under the Fire Guard (Medical and Hardship Exemptions) Order, 1943, or the Second Schedule to this order ;

- (b) the occupier of business premises (with the consent of the appropriate authority) or the appropriate department for government premises may exempt from the performance of the said duties during their working hours persons engaged on work which ought not to be interrupted ;
- (c) women shall only be required to perform the said duties during their working hours if and so far as those duties cannot be performed by the said male persons.

(2) The occupier of any non-residential premises which are business premises or the appropriate department for any non-residential premises which are government premises may agree with any persons working at the premises for the voluntary performance by them during their working hours of fire guard duties under the arrangements, and it shall be the duty of any person who has entered into such an agreement to perform, in accordance with the agreement, during his working hours such fire guard duties under the arrangements, at such time and place and in such manner, as may be directed under this order, unless the person entering into the agreement has given not less than seven days' notice in writing terminating that agreement and the said period has expired :

Provided that an agreement shall not be made under this paragraph with any male person who is under the age of 16 or has attained the age of 70 or with any girl under the age of 18 or any woman who has attained the age of 60 or with any such person as is referred to in sub-paragraph (f), sub-paragraph (g) or sub-paragraph (h) of paragraph 1 of Part I of the Second Schedule to this order. [579]

11.—(1) Subject to and in accordance with the following provisions of this order, where arrangements are in force for any premises under this order, it shall be the duty of all persons working at any non-residential premises or living at any residential premises to which the arrangements apply who have attained, in the case of male persons, the age of 18 and not the age of 63 or, in the case of women, the age of 20 and not the age of 45, to perform outside their working hours such fire guard duties under the arrangements, at such time and place and in such manner, as may be directed under this order :

Provided that—

- (a) this paragraph shall not apply to any person who is wholly exempt from the performance of the said duties outside his working hours under the Fire Guard (Medical and Hardship Exemptions) Order, 1943, the Second Schedule to this order of the following provisions of this Article ;
- (b) the periods for which the said duties are required to be performed by any person outside his working hours shall not in the aggregate exceed forty-eight hours in each period of four weeks or, in the case of a person partly exempt under the Fire Guard (Medical and Hardship Exemptions) Order, 1943, or the Second Schedule to this order from the performance of the said duties outside his working hours, such less number of hours in each period of four weeks as may be fixed in his case by or under the said order or the said Schedule ;
- (c) no person shall be required to perform the said duties outside his working hours during more than two week-ends out of any four consecutive week-ends ;
- (d) a woman shall not be required to perform the said duties outside her working hours at any time between 12 noon and 6 p.m. on Saturday or on such other day of the week as, in the case of

business premises, the appropriate authority, by directions given to the occupier of the premises, or, in the case of government premises the appropriate department, may substitute for Saturday for the purposes of this provision ;

(e) this paragraph shall not apply to any woman by reason only that she is employed part-time at the premises, whether by the week or the day or otherwise, as a charwoman ;

(f) a woman who is directed by the Minister of Labour and National Service to take up part-time employment at the premises shall not be required to perform the said duties outside her working hours.

(2) Where any person works at two or more non-residential premises for which different fire guard arrangements are in force under this order—

(a) if all the premises are business premises in the same occupation or government premises for which there is the same appropriate department, the occupier of the business premises (with the consent of the appropriate authority) or the appropriate department for the government premises, as the case may be, shall select which of the arrangements are to apply to him outside his working hours ;

(b) in any other case, the arrangements which are to apply to him outside his working hours shall be selected by agreement between the occupiers of any business premises concerned (with the consent of the appropriate authority) and the appropriate departments for any government premises concerned or, in default of such agreement, by lot ;

and he shall be exempted from duties outside his working hours under the other arrangements.

(3) Any person shall be exempted from duties under arrangements in force under this order for any residential premises where he lives if and so long as he performs duties outside his working hours under arrangements in force under this order for any non-residential premises where he works.

(4) Any person who is liable under this Article to perform fire guard duties outside his working hours under arrangements in force for any business or government premises, other than the Palace of Westminster or any building to which this paragraph applies, shall be exempted from performing those duties outside his working hours—

(a) if and so long as he performs duties under arrangements in force under this order for the Palace of Westminster for periods amounting in the aggregate to not less than forty-eight hours in each period of four weeks ;

(b) if and so long as he performs with the consent of the occupier of the said business premises or the appropriate department for the said government premises, as the case may be, duties under arrangements in force under this order for any building to which this paragraph applies for periods amounting in the aggregate to not less than forty-eight hours in each period of four weeks.

This paragraph shall apply to any building prescribed under this paragraph as being a building the preservation of which or of the contents of which appears to the Minister to be in the public interest by reason of its historic or national character or otherwise.

(5) In this Article the expression “ week-end ” means the period between 12 noon on Saturday and 12 noon on the following Monday. [580]

12.—(1) The foregoing provisions of this Part of this order, except paragraph (2) of Article 10, shall not apply to any alien except aliens who—

- (a) are registered under the Aliens Order, 1920, as subsequently amended, as nationals of any one of the states specified in the Third Schedule to this order or as stateless persons or as enemy aliens, or are British protected persons ; and
- (b) are for the time being exempted from Article 1 of the Aliens (Movement Restriction) Order, 1940, as subsequently amended, or are partly or conditionally exempted therefrom in such manner as will enable them adequately to perform fire guard duties ;

and the said provisions shall not apply to any alien recognised by His Majesty as being a consul-general, consul, vice-consul or consular agent of any foreign Power accredited to His Majesty.

(2) Every occupier of business premises and every appropriate department for government premises shall keep a list of all the aliens who are for the time being performing duties under arrangements in force for the premises under this order, and the list shall be open to inspection by any constable.

(3) If the chief officer of police serves a notice on any occupier of business premises or appropriate department for government premises directing that any alien specified in the notice shall not perform duties under arrangements in force for the premises, the occupier or appropriate department shall not, so long as the direction remains in force, require or allow that alien to perform those duties.

(4) The appropriate authority for any business premises and the appropriate department for any government premises may direct that all aliens, or aliens of a class specified in the directions, shall not be required or allowed—

- (a) to perform any fire guard duties under arrangements in force for those premises, or
- (b) to perform such duties in such parts of the premises as may be specified in the directions, or
- (c) to perform such duties at such times as may be so specified.

(5) Nothing in this Article shall be taken as prejudicing the immunities and privileges of an envoy of a foreign Power accredited to His Majesty or any member of the retinue of such an envoy or any person to whom those immunities and privileges are extended under section one or section two of the Diplomatic Privileges (Extension) Act, 1941. [581]

13.—(1) Where arrangements are in force for any premises under this order the occupier of the premises, if they are business premises, or the appropriate department for the premises, if they are government premises, shall from time to time calculate the number of persons who would be required under the arrangements to perform fire guard duties outside the normal working hours of the premises (as at the time of the calculation) during a period of four weeks throughout which the hours of darkness began at 5 p.m. and ended at 9 a.m., if each person performed such duties during that period for periods amounting in the aggregate to forty-two hours :

Provided that, if it appears to the appropriate authority or the appropriate department for the premises that, by reason of the operation of proviso (c) to paragraph (1) of Article 11 of this order in relation to the premises in question, it is not reasonably practicable to secure that on an average persons perform such duties for periods amounting in the aggregate to forty-two hours in a period of four weeks, the appropriate authority may authorise the occupier of the premises in writing to increase, to such extent as may be specified, the number calculated under this paragraph or, as the case may be, the appropriate department may increase the said number.



(2) Where the said number has been calculated under the last foregoing paragraph, it shall not be necessary for the occupier or the appropriate department to make any fresh calculation thereof unless—

- (a) the arrangements or the normal working hours of the premises are altered in such a way as substantially to affect the said number ; or
- (b) in the case of business premises, the appropriate authority directs a fresh calculation.

(3) For the purposes of this Article—

- (a) the normal working hours of all premises to which the arrangements apply shall—

- (i) if the premises consist of or include non-residential premises, be deemed to be the time during which all the fire guard duties required by the arrangements to be performed can be wholly performed by persons at work at those non-residential premises (including paid fire guards) ;

- (ii) if the premises consist wholly of residential premises, be deemed to be the period between 9 a.m. and 5 p.m. ;

- (b) the requirements of the arrangements, so far as they are satisfied by the performance of duties outside the normal working hours of the premises by persons at work outside those hours or by paid fire guards, shall be deemed to be reduced to that extent.

(4) If the number of male persons who are liable under Article 11 of this order to perform fire guard duties under the arrangements outside their working hours (excluding persons who are partly exempt from performing those duties outside their working hours) exceeds the number calculated under paragraph (1) of this Article, the occupier or the appropriate department shall place all the said persons in the following categories :—

- (a) persons appointed, in the case of business premises, by the occupier or a person authorised by him or, in the case of government premises, by the appropriate department to be fire party leaders ;
- (b) persons who do not live in a compulsory enrolment area and are not included in category (a), (e) or (f) ;
- (c) if an agreement made under this Article so provides, persons who state a preference for the said duties ;
- (d) persons who live in a compulsory enrolment area and are not included in category (a), (c), (e) or (f) ;
- (e) if an agreement made under this Article provides for the special exclusion of particular persons or classes of persons who would otherwise be included in category (b) or category (d) hereof, those persons ;
- (f) any person who produces a certificate from a local authority, harbour authority or county council stating that he has undertaken before the date of the coming into operation of this order to perform part-time duties as a member of a civil defence service organised by that authority or county council ;

and the occupier or the appropriate department shall place the persons falling in each such category in a numerical order and assign identification numbers to them accordingly, and the said order shall, unless it is settled by an agreement made under this Article, be determined by lot.

(5) Where the said persons have been placed in categories and assigned identification numbers as aforesaid the occupier or the appropriate department shall select such number of them as is equal to the number calculated under paragraph (1) of this Article, in the following manner, namely, those falling



within category (a) aforesaid, beginning with those to whom the lowest identification numbers have been assigned, shall be selected first, those falling within category (b) aforesaid shall in the like manner be selected next, and so on ; and the persons so selected and no other persons shall be required in accordance with Article 11 of this order to perform fire guard duties under the arrangements outside their working hours.

(6) The occupier of any business premises, or a person authorised by him, or, as the case may be, the appropriate department for any government premises shall—

- (a) notify in the prescribed form to the local authority for the area where they live the names and addresses of all the said persons who are not for the time being selected as aforesaid and live in a compulsory enrolment area, and the categories in which they are placed and the identification numbers assigned to them under this Article ;
- (b) if the premises are in a compulsory enrolment area, notify in the prescribed form to the local authority for that area, the names and addresses and the said category and identification numbers of all the said persons who are not so selected and are not notified under the last foregoing sub-paragraph ;

and the notification of any such person shall be made within twenty-one days from the date when that person became notifiable under this paragraph.

(7) Where, after persons have been placed in categories and assigned numbers under this Article, any person becomes liable to perform fire guard duties outside his working hours under Article 11 of this order and is not partly exempt therefrom, he shall be placed in the appropriate category and assigned an identification number in that category immediately above the highest number previously assigned, and the foregoing provisions of this Article shall apply to him accordingly.

(8) Where any person who has been notified to a local authority under this Article ceases to work at non-residential premises or live at residential premises to which the arrangements apply, the occupier or appropriate department shall notify the local authority and that person shall be released from any liability arising by virtue of this Article in connection with those arrangements to perform duties in the service of the local authority.

(9) Where any person placed in a category under paragraph (4) of this Article ceases to be in that category, he shall be transferred to the appropriate category and assigned an identification number in that category immediately above the highest number previously assigned and the foregoing provisions of this Article shall apply to him accordingly and in a case where the said person has been notified to the local authority and is not selected under paragraph (5) of this Article by reason of the transference the occupier or appropriate department shall notify the local authority of the transference and specify the new category and identification number.

(10) Where, by reason that any persons have ceased, either wholly or partly, to be liable to perform duties under the arrangements outside their working hours, or that the arrangements have been amended so as to require an increased number of persons to perform such duties, or by reason that any person is transferred to a different category under this Article, any person notified to a local authority under this Article is subsequently selected under paragraph (5) of this Article, the occupier or the appropriate department shall notify the local authority of that fact.

(11) An agreement made under this Article shall be made by the occupier or the appropriate department with all the persons referred to in paragraph (4) of this Article, or such of those persons as are affected by the agreement,

or with the representatives of the said persons, and shall be in the prescribed form, and any such agreement as is referred to in sub-paragraph (e) of the said paragraph shall only be made, in the case of business premises, with the approval of the appropriate authority, and the occupier or the appropriate department shall, in carrying out his or its duties under this Article, consult with the said persons or their representatives.

(12) Where persons are placed in categories and assigned identification numbers under this Article, the occupier or the appropriate department shall keep at the premises in a place where it is readily available for inspection at all reasonable times by the persons affected a list of the categories and identification numbers indicating which of those persons are for the time being selected under paragraph (5) of this Article and which of those persons have been notified to local authorities under paragraph (6) thereof.

(13) Where an agreement is made under paragraph (8) of Article 2 of this order with respect to police premises and other premises, the occupier of the other premises shall notify the names and addresses of all male persons who would but for sub-paragraph (b) of the said paragraph be liable under Article 11 of this order to perform fire guard duties under the arrangements to the local authority for the area where they live, if that area is a compulsory enrolment area, or, if they do not live in such an area and the premises to which the arrangements apply are in such an area, to the local authority for the area in which the premises are situated. [582]

14.—(1) Where arrangements are in force for any premises under this order, and the number of persons referred to in paragraph (4) of the last foregoing Article equals or exceeds the number calculated under paragraph (1) of that Article, paragraph (6) of that Article shall so far as applicable apply to all male persons liable under Article 11 of this order to perform fire guard duties under the arrangements outside their working hours, being persons who are partly exempt under the Fire Guard (Medical and Hardship Exemptions) Order, 1943, or the Second Schedule to this order from performing duties under the arrangements outside their working hours, and they shall be notified to the local authorities concerned in like manner as persons referred to in the said paragraph (4) who are not selected under paragraph (5) of the last foregoing Article.

(2) Where the number of the persons referred to in paragraph (4) of the last foregoing Article is less than the number calculated under paragraph (1) of that Article, the male persons who are partly exempt as aforesaid shall be required, up to the number necessary to make good the deficiency (allowance being made for the extent of their exemption), to perform fire guard duties under the arrangements outside their working hours in accordance with Article 11 of this order.

(3) If some but not all the said partly exempt persons are required to be so selected, paragraph (4) of the last foregoing Article shall have effect as if all the said persons were placed in a separate category (g) coming immediately after the categories specified in that paragraph, and the following provisions of that Article shall apply to them accordingly.

(4) Where a male person who is not exempt becomes partly exempt as aforesaid, or a person who is partly exempt ceases to be exempt, he shall be placed in the appropriate category (if any) and assigned an identification number in that category immediately above the highest number previously assigned as if he had become liable to perform fire guard duties under the arrangements for the first time.

(5) Notwithstanding the provisions of the last foregoing Article and the foregoing provisions of this Article, if the appropriate department for any

government premises or the appropriate authority for any business premises considers that the performance of duties by partly exempt persons in priority to persons who are not exempt will result in the release of a substantial number of the last-mentioned persons for service with the local authority, the appropriate department may require, or the appropriate authority may authorise the occupier to require, the said partly exempt persons or a specified number of them to perform the said duties (to the extent of their liability) in priority to the persons referred to in paragraph (4) of the last foregoing Article, and, if a specified number of the said partly exempt persons is required, they shall be selected by agreement between the appropriate department or the occupier and the said persons or their representatives or, failing such agreement, by lot, and the foregoing provisions of this Article shall apply to the remainder of the said persons.

Where any partly exempt persons are required to perform duties in accordance with this paragraph, then, in calculating the number referred to in paragraph (1) of the last foregoing Article, the requirements of the arrangements shall be deemed to be reduced to the extent that the fire guard duties to be performed outside the normal working hours of the premises are performed by partly exempt persons in accordance with this paragraph. [583]

**15.—(1)** Where arrangements are in force for any premises under this order and the number of persons mentioned in paragraph (4) of Article 13 of this order is less than the number calculated under paragraph (1) of that Article, and the deficiency cannot be made good by the performance of duties in accordance with the last foregoing Article by male persons who are partly exempt therefrom, the occupier or the appropriate department may agree with any persons for the voluntary performance by them of fire guard duties under the arrangements outside their working hours, and it shall be the duty of any person who has entered into such an agreement to perform in accordance with the agreement such fire guard duties, at such time and place and in such manner, as may be directed under this order, unless the person entering into the agreement has given not less than seven days' notice in writing terminating the agreement and the said period has expired :

Provided that an agreement shall not be made under this paragraph with any male person who is under the age of 16 or who has attained the age of 70 or with any girl under the age of 18 or any women who has attained the age of 60, and an agreement so made with any male person under the age of 18 shall not require him to perform the said duties outside his working hours for periods amounting in the aggregate to more than forty-eight hours in any period of four weeks, and an agreement shall not be made under this paragraph with any such person as is referred to in sub-paragraph (f), sub-paragraph (g) or sub-paragraph (h) of paragraph 1 of Part I of the Second Schedule to this order.

(2) No agreement shall be made under the last foregoing paragraph with any male person liable to perform compulsory fire guard duties under the Fire Guard (Local Authority Services) Order, 1943, except so far as he may agree to perform fire guard duties under the arrangements in addition to the said compulsory duties.

(3) Any agreement made under paragraph (1) of this Article with a woman who has attained the age of 20 and not the age of 45, shall require her to perform the said duties for periods amounting in the aggregate to not less than forty-eight hours outside her working hours in each period of four weeks.

(4) Where the said deficiency is not made good by such voluntary agreements as aforesaid, women who are liable under Article 11 of this order to perform fire guard duties under the arrangements outside their working

hours shall be required, up to the number necessary to make good the said deficiency, to perform those duties outside their working hours in accordance with the said Article 11 :

Provided that—

(a) this paragraph shall not apply to any premises or parts of premises as respects which a direction to that effect is given—

(i) in the case of business premises for which a local authority is the appropriate authority, by the Regional Commissioner either on the application of the occupier or otherwise ;

(ii) in the case of any other business premises, by the appropriate authority on the application of the occupier or by the Regional Commissioner ;

(iii) in the case of any government premises, by the appropriate department or by the Regional Commissioner ;

and any direction given by an appropriate authority or appropriate department under this paragraph shall be notified to the Regional Commissioner ;

(b) this paragraph shall not apply in relation to any such class of premises or of parts of premises as may be prescribed by the Minister.

(5) Where the number of such women as are mentioned in the last foregoing paragraph exceeds the number necessary to make good the said deficiency, the occupier or the appropriate department shall place such of the said women as are not partly exempt from the performance of fire guard duties under the arrangements outside their working hours in the categories mentioned in paragraph (4) of Article 13 of this order (so far as applicable), and shall place such of the said women as are partly exempt in a separate category after the said categories and shall assign identification numbers to them accordingly and shall select the women who are to perform fire guard duties outside their working hours (so far as they are required to make good the said deficiency) in the manner mentioned in paragraph (5) of the said Article as extended by Article 14 of this order :

Provided that, if the appropriate department for any government premises or the appropriate authority for any business premises considers that the performance of duties by partly exempt women will result in the release of a substantial number of women who are not exempt for service with the local authority, the appropriate department may require, or the appropriate authority may authorise the occupier to require, the said partly exempt women or a specified number of them to perform the said duties (to the extent of their liability) in priority to the women who are not exempt, and, if a specified number of the said partly exempt women is required, they shall be selected by agreement between the appropriate department or the occupier and the said women or their representatives or, failing such agreement, by lot.

(6) Paragraphs (7), (9), (11) and (12) of Article 13 and paragraph (4) of Article 14 of this order shall (so far as applicable) apply in relation to women in like manner as they apply to men, subject to the necessary modifications.

(7) Where the said deficiency is not made good under the foregoing provisions of this Article, the occupier of any business premises, with the consent of the appropriate authority, or, as the case may be, the appropriate department for any government premises may, notwithstanding anything

in paragraph (1) of this Article, agree with any boy of the age of 15 or any girl of the age of 16 or 17 who works at the premises, or is being educated or instructed at the premises, for the voluntary performance of fire guard duties outside his or her working hours for periods not exceeding in the aggregate forty-eight hours in each period of four weeks under the arrangements in force for the premises :

Provided that—

(a) the appropriate authority shall not consent to, and the appropriate department shall not make, such an agreement unless it is satisfied that—

(i) the deficiency cannot be made good under the foregoing provisions of this Article and cannot or ought not be made good under paragraph (8) of this Article ;

(ii) the person having charge or control of the boy or girl (otherwise than in the capacity of a schoolmaster or schoolmistress) has consented in writing to the making of the agreement ;

(b) every girl with whom such an agreement is made shall during any period for which she performs fire guard duties outside her working hours be in the charge of a woman who has attained the age of twenty ;

(c) this paragraph shall only apply to such premises as may be directed by the Regional Commissioner.

(8) Where the said deficiency is not made good under the foregoing provisions of this Article :—

(a) the occupier of the premises, if they are business premises, shall notify that fact to the appropriate authority in writing ;

(b) the appropriate department for the premises, if they are government premises, shall notify that fact to the Minister in writing ;

and if the appropriate authority or the Minister, as the case may be, is satisfied that the arrangements for the premises cannot be adequately carried out under this order without the assistance of the local authority, the authority or the Minister shall notify the local authority in writing and it shall thereupon be the duty of that local authority to provide such assistance, and the local authority may exercise control, to such extent (if any) as may be necessary, of any arrangements made for the premises in pursuance of the order.

Any question arising under this paragraph as to the extent of the assistance to be provided or the extent of the control to be exercised by the local authority shall be finally determined by the Minister, after consultation with the appropriate authority or the appropriate department, as the case may be, and the local authority. [584]

**16.—**(1) Where premises for which arrangements are in force under this order are not situated in a compulsory enrolment area, and none of the persons working at non-residential premises to which the arrangements apply lives in a compulsory enrolment area :—

(a) the system specified in Articles 13 and 14 of this order of selecting persons to perform fire guard duties shall not apply and, if the number of male persons who are liable under Article 11 of this order to perform fire guard duties under the arrangements outside their working hours exceeds the number calculated in like manner as under paragraph (1) of Article 13 of this order, the said duties shall, so far as practicable, be shared equally among those persons, subject to any partial exemption granted to any such person and to any

voluntary agreement by any of the said persons to perform a greater share of the said duties ;

- (b) if the number of such male persons is less than the number so calculated, Article 15 shall apply, except paragraphs (3), (5) and (6) thereof, and any duties required to be performed by women under paragraph (4) of that Article shall, so far as practicable, be shared equally among those women.

(2) Where any of the male persons referred to in the last foregoing paragraph are partly exempt from performing fire guard duties under the arrangements outside their working hours, an appropriate allowance shall be made in calculating the number of those persons for the purposes of that paragraph.

(3) Where the premises are not in a compulsory enrolment area and it appears to the appropriate authority, if they are business premises, or to the appropriate department, if they are government premises, that a substantial number of the persons working at non-residential premises to which the arrangements apply do not live in a compulsory enrolment area, it may give directions that Articles 13, 14 and 15 of this order shall have effect subject to such notifications and exceptions as may be specified in the directions, being modifications and exceptions designed to secure that the persons who live in a compulsory enrolment area shall, so far as the numbers of available fire guards permit and subject to exceptions for fire party leaders, persons trained in civil defence duties and members of any fire brigade maintained for the premises, be notified to, or made available for service under, the local authority for the area and shall not be required to perform fire guard duties under the arrangements outside their working hours, and that the said duties shall be shared among the remainder in like manner as in the case of arrangements to which paragraph (1) of this Article applies. [585]

17.—(1) Where the Minister is satisfied, as respect any non-residential premises or class of non-residential premises, that the conditions of employment are so irregular or otherwise exceptional that the system specified in Articles 13 and 14 of this order of selecting persons to perform fire guard duties is inappropriate, he may direct that the said system shall not apply to those premises or that class of premises, and if the number of male persons who are liable under Article 11 of this order to perform fire guard duties under the arrangements outside their working hours exceeds the number calculated in like manner as under paragraph (1) of Article 13 of this order, the said fire guard duties shall be shared equally among the said persons, subject to any partial exemption granted to any such person and to any voluntary agreement by any of the said persons to perform a greater share of the said duties.

(2) Where any of the male persons referred to in the last foregoing paragraph are partly exempt from performing fire guard duties under the arrangements outside their working hours, an appropriate allowance shall be made in calculating the number of those persons for the purposes of that paragraph. [586]

18.—(1) In the case of arrangements which apply only to police premises, premises occupied for the purposes of the National Fire Service, the civil defence reserve or any civil defence service organised by a local authority, harbour authority or county council :—

- (a) the system specified in Articles 13 and 14 of this order of selecting persons to perform fire guard duties shall not apply and, if the number of male persons who are liable under Article 11 of this order to perform fire guard duties under the arrangements outside their



working hours exceeds the number calculated in like manner as under paragraph (1) of Article 13 of this order, the said duties shall, so far as practicable, be shared equally among those male persons, subject to any partial exemption granted to any such person and to any voluntary agreement by any of the said persons to perform a greater share of the said duties ;

- (b) if the number of such male persons is less than the number so calculated, Article 15 shall apply except paragraphs (3), (5) and (6) thereof, and any duties required to be performed by women under paragraph (4) of that Article shall, so far as practicable, be shared equally among those women.

(2) Where any of the male persons referred to in the last foregoing paragraph are partly exempt from performing fire guard duties under the arrangements outside their working hours, an appropriate allowance shall be made in calculating the number of those persons for the purposes of that paragraph.

(3) Where any police premises or any premises occupied for the purposes of the National Fire Service, the civil defence reserve or any civil defence service organised by a local authority, harbour authority or county council are included in joint arrangements which apply also to other premises, Article 13 of this order shall have effect subject to the following modifications—

- (a) the occupier or appropriate department shall place such of the persons working at any of the said premises as are constables or members of the National Fire Service, the civil defence reserve or any civil defence service organised by a local authority, harbour authority or county council, in a separate category (aa) between category (a) and category (b) of paragraph (4) of the said Article ;
- (b) paragraphs (6), (8) and (10) of the said Article shall not apply in relation to any of the said persons. [587]

19.—(1) Where it appears to a person authorised to act under this Article that any person required to perform fire guard duties under arrangements in force for any police premises or any premises occupied for the purposes of the National Fire Service, the civil defence reserve, any civil defence service or mortuary service organised by a local authority, harbour authority or county council, the American Ambulance (Great Britain) or any public utility undertaking is urgently required to perform duties other than fire guard duties, he may release that person from the said fire guard duties for such period as he is so required to perform the said other duties.

(2) The following persons shall be authorised to act under this Article :—

- (a) in the case of police premises, the chief officer of police or any person authorised by him ;
- (b) in the case of premises occupied for the purposes of the National Fire Service, being premises in the control of a Fire Force Commander, the Fire Force Commander or any person or person of a class authorised by him ;
- (c) in the case of any other premises occupied for the purposes of the National Fire Service, a person designated by the Secretary of State or a person of a class so designated ;
- (d) in the case of premises occupied for the purposes of the civil defence reserve, the commandant of the unit of the civil defence reserve or any person authorised by the commandant ;
- (e) in the case of premises used for the purposes of any civil defence service or mortuary service organised by a local authority, harbour



authority or county council, any person authorised by the local authority or county council ;

(f) in the case of any other premises to which this Article applies, the person in charge of the premises.

(3) Where any member of the Home Guard who works at non-residential premises is required during his working hours to perform duties as a member of the Home Guard, he shall be released from any fire guard duties which he is required under this order to perform during his working hours for such period as he is so required to perform duties as a member of the Home Guard.

(4) Any member of a mortuary service organised by a local authority or county council who, while performing fire guard duties under this order is urgently required to perform duties as a member of that service, shall be released from the said fire guard duties for such period as he is so required to perform duties as a member of that service.

(5) The Minister may by directions provide for the release from fire guard duties under this order of any persons or class of persons specified in the directions, to such extent as may be necessary to enable him to perform other urgent duties specified in the directions and subject to such conditions and restrictions as may be so specified. [588]

20.—(1) The Minister may, as respects any area—

- (a) give directions that women shall not be required, or shall not be required or permitted, to perform fire guard duties in that area under this order ; or
- (b) give directions that women working at any non-residential premises in that area shall not be required, or shall not be required or permitted, to perform fire guard duties at those premises under this order outside their working hours ;

and, while any such directions are in force, this order shall have effect subject thereto.

(2) The Minister may, as respects any specified area or premises, give directions that all persons who are required to be notified to local authorities under Article 13 of this order by the occupiers of or appropriate departments for premises in the specified area, or the specified premises, as the case may be, shall be notified to the local authority for the area in which the premises are situated, and, in the case of persons who have already been notified to the local authorities for other areas where they live, there shall be substituted a new notification in accordance with the directions in place of the earlier notification, and while any such directions are in force, this order shall have effect subject thereto.

(3) In the case of business or government premises situated in an area to which the Fourth Schedule to the Fire Guard (Local Authority Services) Order, 1943, applies (which Schedule provides for the registration and compulsory enrolment of persons working in certain areas), being premises to which the said Schedule applies, the duty of the occupier of any such business premises or the appropriate department for any such government premises to make arrangements for the premises, and to carry out their duties under this order in relation to such arrangements, shall continue, but the liability of persons working or living at any such premises (other than paid fire guards) to perform fire guard duties under the arrangements outside their working hours shall cease, and this order shall apply to the arrangements as if they were arrangements in respect of which the local authority had been notified under Article 15 of this order to provide assistance on the basis that no duties could be performed outside their working hours by persons working or living at the premises (other than paid fire guards).

(4) Where the Fourth Schedule to the Fire Guard (Local Authority Services) Order, 1943, applies to any business premises by virtue of a notice under paragraph (2) of Article 12 of that order, this order shall, so long as the said Schedule so applies, not apply to those premises. [589]

21. Nothing in the foregoing provisions of this Part of this order shall be taken as preventing or restricting the employment by the occupier of any business premises or appropriate department for any government premises for which arrangements are in force under this order of paid fire guards, and it shall be the duty of those paid fire guards in accordance with the terms of their employment to perform such fire guard duties, at such time and place and in such manner, as may be directed under this order, and they shall also be liable under Article 11 of this order to perform fire guard duties outside the hours for which they are employed as paid fire guards, in like manner as other persons working at the premises :

Provided that no person shall be employed as a paid fire guard to perform duties under arrangements in force under this order unless—

- (a) he has attained, in the case of a male person, the age of 16 and not the age of 70 or, in the case of a woman, the age of 18 and not the age of 60 ; and
- (b) in the case of business premises, the appropriate authority has consented to the employment of paid fire guards and the occupier has certified that the paid fire guards employed by him are physically fit to perform fire guard duties. [590]

22.—(1) It shall be the duty of the occupier of any business premises or appropriate department for any government premises for which arrangements are in force under this order (including arrangements made for business premises by the appropriate authority) to secure that the fire posts and appliances specified in the arrangements are manned in accordance with the arrangements, and for that purpose the occupier or department shall give directions as to the occasions on which the persons required to perform fire guard duties under the arrangements (including persons directed by a local authority under Article 2 of the Fire Guard (Local Authority Services) Order, 1943, to perform such duties) are to be on duty, and the place at which and the manner in which they are to perform the said duties, and shall secure, so far as practicable, that the said duties, so far as they are performed outside working hours, are shared equally among those persons, having regard to the foregoing provisions of this Part of this order and the extent of the liability of the said persons under those provisions.

Any such directions may, in the case of business premises, be given on behalf of the occupier by a person authorised by him.

(2) Directions given under the last foregoing paragraph shall secure that on all such occasions as aforesaid one of the persons who are for the time being on duty is in charge of the others and is adequately trained for the purpose and has received all necessary instructions as to the duties to be performed, and that person shall, in accordance with such instructions and the following provisions of this Article, direct the performance of the said fire guard duties, and the other persons on duty shall comply with directions given by him or his subordinates.

(3) Where a local authority for any area to which the Fire Guard (Local Authority Services) Order, 1943, applies have established under Article 3 of that order a system of mutual reinforcement by fire guards in the area or a system of reporting fires and summoning the assistance of the National Fire Service, it shall be the duty of persons (other than constables and members of the National Fire Service) performing fire guard duties under this order at any premises in the said area at any time when any such system is in operation,

to comply with any directions given for the purpose of operating the system by the sector captain or block leader for the sector or block comprising those premises, or any person duly authorised to act on behalf of the sector captain or block leader :

Provided that directions given as aforesaid shall not reduce the number of persons performing fire guard duties at the premises below a number—

- (a) in the case of business premises, previously agreed between the sector captain and the occupier of the premises with the consent of the appropriate authority or, in default of such agreement, fixed by the Regional Commissioner ;
- (b) in the case of government premises, previously agreed between the sector captain and the appropriate department or, in default of such agreement, fixed by the Minister.

(4) If a fire occurs otherwise than as a result of hostile attack at any premises for which arrangements are in force under this order, any person then on duty at the premises under this order shall, on the detection of the fire, take such steps as are immediately practicable to combat the fire and shall summon such assistance as may be necessary :

Provided that—

- (a) in any area where, and during any period while, any such system as is mentioned in the last foregoing paragraph is in operation, this paragraph shall not apply but fires occurring otherwise than as a result of hostile attack shall be dealt with in like manner as fires occurring as a result of such attack ;
  - (b) if a fire brigade is maintained for the premises, assistance to combat a fire occurring otherwise than as the result of hostile attack shall not be summoned from the National Fire Service except by the person for the time being in charge of the fire brigade.
- [591]**

**23.—**(1) Where a member of the National Fire Service is in control under paragraph (1) of Article 5 of the Fire Guard (Local Authority Services) Order, 1943, of all fire guards performing duties in any block wholly or partly situated in a fire zone, all fire guards performing fire guard duties under this order in that block shall comply with any directions given to them by the said member or by any other member of the National Fire Service performing duties in the fire zone.

(2) Where any section leader or other member of the National Fire Service of higher rank is in control under paragraph (2) of the said Article 5 of all fire guards performing duties in any block, all fire guards performing duties under this order in that block shall comply with any directions given to them by the said section leader or other member.

(3) Where the block leader requires under paragraph (3) of the said Article 5 any fire guards performing duties under this order in any block to assist members of the National Fire Service present at a fire in that block, they shall comply with any directions given to them by any of the said members of the National Fire Service as respects the combating of that fire and the summoning of assistance therefor. **[592]**

**24.—**(1) The occupier of any business premises or the appropriate department for any government premises for which arrangements are in force under this order shall make provision for securing that all persons who have agreed or are required to perform fire guard duties under the arrangements (including persons directed by a local authority under the Fire Guard (Local Authority Services) Order, 1943, to perform such duties) receive, as

soon as practicable after they commence to perform those duties and thereafter from time to time, instruction and training with respect to the following matters :—

- (a) the characteristics of different types of incendiary bombs and other missiles likely to cause fire and the methods of dealing therewith ;
- (b) the use of fire guard equipment and appliances, whether by individuals or by teams or parties, and the maintenance of such equipment and appliances and of supplies of water ;
- (c) the situation of any fire guard equipment and appliances and supplies of water available for use at the premises where the duties are to be performed, and the situation and use of any hydrants, taps, switches and other appliances for controlling any supply of water, gas or electricity available for use at the said premises ;
- (d) the lay-out of the said premises and in particular the roofs, and the methods of obtaining access to the roofs and other parts of the said premises, and the approaches to the said premises ;
- (e) the methods of reporting fires and summoning assistance and, in particular, if the system of reporting fires and summoning assistance referred to in paragraph (3) of Article 22 of this order is established, that system ;
- (f) the situation of the sector control points and block control points and the routes from the sector control points to the nearest fire station or, if the said system of reporting fires and summoning assistance is established, the fire station designated in accordance with that system ;
- (g) if the system of mutual reinforcement referred to in the said paragraph (3) is established, the method of giving mutual reinforcement in accordance with that system.

(2) Every person for whom instruction and training is provided under the foregoing provisions of this Article shall comply with any directions given to him, in the case of business premises, by the occupier or a person authorised by him or, in the case of government premises, by the appropriate department requiring him to attend for instruction and training at a specified time and place, whether during or outside his working hours and whether at the premises or elsewhere, and shall also comply with any directions given to him in the course of the instruction and training by the person in charge thereof ; and shall also, if any training exercise is organised by the local authority under paragraph (6) of Article 6 of the Fire Guard (Local Authority Services) Order, 1943, for the purpose of establishing or promoting the efficiency of any such system as is referred to in the last foregoing Article, take part in that exercise, so far as practicable, and comply with any directions given to him in the course thereof :

Provided that no person working at any non-residential premises to which this order applies shall take part in any such training exercise during his working hours except with the consent of the occupier of the premises, if they are business premises, or the appropriate department for the premises, if they are government premises.

(3) Where arrangements are in force for any premises under this order,—

- (a) the foregoing paragraph shall not apply to any person wholly exempt from fire guard duties under the arrangements ;
- (b) any person exempted from the performance of the said duties except during his working hours shall not be required under the foregoing paragraph to attend for the purpose of receiving instruction and training except during his working hours ;

- (c) any period for which any person is required under this Article to attend for instruction and training or to take part in a training exercise shall be treated as a period for which he is required to perform the said duties, and travelling expenses and subsistence allowances shall be payable accordingly under the next following Article, and, if any person working at non-residential premises is required to attend for instruction and training, or to take part in a training exercise, during or immediately before or after a period for which he is required to perform the said duties outside his working hours the period of his attendance shall (subject to proviso (iii) to paragraph (1) of the next following Article) not be treated as a separate occasion. [593]

25.—(1) The occupier of any business premises or the appropriate department for any government premises for which arrangements are in force under this order shall, as respects the persons who are required to perform fire guard duties under the arrangements (including persons directed by a local authority under the Fire Guard (Local Authority Services) Order, 1943, to perform such duties), secure that the amount of any additional travelling expenses reasonably incurred by any such person in consequence of the arrangements is reimbursed, and subsistence allowances of the following amounts are paid to every such persons—

- (a) in respect of any occasion on which he performs the said duties outside his working hours for a continuous period not exceeding twelve hours, three shillings ;
- (b) in respect of any occasion on which he performs the said duties outside his working hours for a continuous period exceeding twelve hours but not exceeding eighteen hours, four shillings and sixpence ;
- (c) in respect of any occasion on which he performs the said duties outside his working hours for a continuous period exceeding eighteen hours but not exceeding twenty-four hours, six shillings :

Provided that—

- (i) no person shall be entitled to a subsistence allowance in respect of the performance of the said duties at any premises at a time while he is living in a building comprising those premises or in an adjoining or neighbouring building comprising any premises to which the arrangements apply, except in a case where the place where he normally takes his meals is situated in the building and throughout his period of duty he is not permitted to go to that place ;
- (ii) no person shall be entitled to a subsistence allowance in respect of an occasion on which he performs the said duties during a break for food or rest not exceeding one and a half hours in the course of a period of work ;
- (iii) a person who performs the said duties outside his working hours for a continuous period exceeding twenty-four hours shall be deemed, after the completion of twenty-four hours, to perform the said duties on a new occasion ;
- (iv) where any person performs the said duties outside his working hours for two or more complete periods within a continuous period of twenty-four hours beginning and ending at 12 midnight, the said periods of duty shall be aggregated and treated as a single occasion ;
- (v) for the purposes of this Article no person shall be deemed to perform the said duties at a time when he is not available at the

premises to perform them but is only liable to be called to the premises if required ;

- (vi) a paid fire guard shall not be entitled to any subsistence allowance under this paragraph except in respect of an occasion on which he performs duties outside his working hours for a continuous period of at least eight hours, and he shall not be entitled to subsistence allowance in respect of more than six such occasions during any period of four weeks.

(2) Where any person working at any non-residential premises or living at any residential premises for which arrangements are in force under this order is appointed a block leader or a sector captain for the block or sector in which the premises are situated, the occupier of the premises, if they are business premises, or the appropriate department for the premises, if they are government premises, shall secure that the amount of any additional travelling expenses reasonably incurred by that person in consequence of his appointment is reimbursed, and that subsistence allowances are paid to him in respect of the performance of the duties required of him by virtue of the appointment in like manner as to a person performing duties under the arrangements.

(3) Save as is provided by the foregoing provisions of this Article, no such person as is referred to therein shall be entitled to any remuneration for the performance of the duties referred to therein outside his working hours. [594]

26. It shall be the duty of the occupier of any business premises or the appropriate department for any government premises for which arrangements are in force under this order, whether or not they were made by him or it—

- (a) to establish fire posts and provide and maintain in a serviceable condition fire guard equipment (including helmets, eye shields and armlets) and appliances and supplies of water at the premises, in accordance with the arrangements ;
- (b) to provide and maintain at non-residential premises, for persons performing fire guard duties at such premises outside their working hours (including persons directed by a local authority under the Fire Guard (Local Authority Services) Order, 1943, to perform such duties at any premises to which the arrangements apply) proper and adequate sleeping accommodation, bedding, sanitary conveniences, and facilities for washing, and, if persons of both sexes perform duties as aforesaid at the same time, separate provision shall be made for each sex ;
- (c) to provide for the adequate lighting and, so far as practicable, adequate heating of the place where sleeping accommodation is provided at the premises and also (so far as necessary) of the fire posts ;
- (d) to give to all persons performing fire guard duties at the premises (including persons directed as aforesaid) access to all parts of the premises, except such parts as may reasonably be excluded. [595]

27.—(1) The appropriate authority for any business premises for which arrangements are in force under this order may give directions to the occupier of the premises as to the manner in which he is to perform his duties under this Part of this order, including directions that, during such periods as may be specified therein, no persons or a reduced number of persons are to be required to be available at the premises, or liable to be called to the premises if required, for the purpose of manning the fire posts and appliances, or that, during such periods as may be specified therein, no persons shall be required to be awake for the purpose of keeping watch and calling out the other persons



to man the fire posts and appliances and the occupier shall comply with any such directions and the arrangements shall have effect subject thereto :

Provided that—

- (a) any directions under this paragraph relaxing the requirement as to persons remaining awake for the purpose aforesaid shall, in the case of premises for which a local authority is the appropriate authority, be given by the Regional Commissioner and not by the local authority ;
- (b) directions given under this paragraph shall not, as respects any period for which persons are required by the arrangements to be available at the premises during the hours of darkness, wholly dispense with that requirement.

(2) Where joint arrangements are in force for any business premises under this order, the appropriate authority may, in default of agreement between the occupiers of the several premises, give directions apportioning among those occupiers the expenses of carrying out, in relation to those arrangements, the duties of an occupier under this Part of this order, and any such directions may have retrospective effect as from such date as may be specified therein.

In exercising its powers under this paragraph, the appropriate authority shall, so far as possible, mitigate any exceptional hardship caused to any occupier by his obligations under this order.

(3) If the occupier of any business premises for which arrangements are in force under this order fails to carry out his duties under this Part of this order, the appropriate authority may itself do so and recover from the occupier summarily as a civil debt any expenses thereby incurred by the authority, and, if the occupier of any such premises fails to pay the expenses apportioned to him under the last foregoing paragraph of this Article, the appropriate authority may take proceedings to recover the said expenses on behalf of the other occupiers :

Provided that nothing in this paragraph shall prejudice any criminal proceedings for any such failure. [596]

28.—(1) The appropriate department for any government premises for which arrangements are in force under this order may, if in all the circumstances the department considers it justifiable to do so, give directions that, during such periods as may be specified therein, no persons or a reduced number of persons are to be required to be available at the premises, or liable to be called to the premises if required, for the purpose of manning the fire posts and appliances, or that, during such periods as may be specified therein, no persons shall be required to be awake for the purpose of keeping watch and calling out the other persons to man the fire posts and appliances, and the arrangements shall have effect subject to any such directions :

Provided that directions given under this paragraph shall not, as respects any period for which persons are required by the arrangements to be available at the premises during the hours of darkness, wholly dispense with that requirement.

(2) It shall be the duty of the occupier of any premises which are deemed to be government premises for the purposes of this order to comply with any directions given by the appropriate department as to the manner in which the arrangements are to be carried out, and the duties referred to in Article 26 of this order shall, so far as relates to any such premises as aforesaid, be performed by the occupier of those premises, and it shall also be his duty to secure, in the case of a person employed at the premises, the reimbursement of travelling expenses and the payment of subsistence allowances.



(3) Where joint arrangements are made for any government premises and premises which are deemed to be government premises for the purposes of this order, the appropriate department may, in default of agreement between the departments which would (but for the making of the joint arrangements) be the appropriate departments for the said government premises and the occupiers of the premises deemed to be government premises as aforesaid, give directions apportioning among those departments and occupiers the expenses of carrying out, in relation to those arrangements, the duties of an appropriate department under this Part of this order, and any such directions may have retrospective effect as from such date as may be specified therein.

In exercising its powers under this paragraph, the appropriate department shall, so far as possible, mitigate any exceptional hardship caused to any such occupier by his obligations under this order.

(4) If the occupier of any premises which are deemed to be government premises for the purposes of this order fails to carry out his obligations under paragraph (2) of this Article, the appropriate department may itself do so and recover from the occupier summarily as a civil debt any expenses thereby incurred by the department :

Provided that nothing in this paragraph shall prejudice any criminal proceedings for any such failure. [597]

### PART III

#### *Provision of services other than fire guard services*

29.—(1) Where a fire brigade is maintained for any business premises or government premises, the occupier of the business premises or the appropriate department for the government premises shall amend the arrangements in force for the premises (if any), or make arrangements for the premises, so as to include provision for the fire brigade and for regulating the duties of the members of the fire brigade.

(2) The appropriate authority for any business premises may give directions to the occupier of the premises requiring him to amend the arrangements in force for the premises (if any), or to make arrangements for the premises, so as to include provision for such civil defence services as may be specified in the directions, and the appropriate department for any government premises may amend the arrangements in force for the premises (if any), or make arrangements for the premises, so as to include provision for such civil defence services as it thinks necessary :

Provided that, where the appropriate authority is a local authority, it shall not give directions under this paragraph without the consent of the Regional Commissioner.

(3) Any arrangements or amendments of arrangements made under this Article shall in particular provide for securing that—

- (a) an adequate number of posts and stations are established at the premises for the fire brigade or civil defence services ;
- (b) an adequate number of persons, which may vary at different times, is at all times available at the premises or, in such special circumstances as may be specified in the arrangements, is liable to be called to the premises, if required, for the purpose of manning the posts and stations and appliances ;
- (c) adequate appliances and equipment are at all times available at the premises for use by the fire brigade or the members of the civil defence services ;
- (d) an adequate supply of water is kept at the premises.

(4) Article 5 of this order, in the case of business premises, or Article 6 of this order, in the case of government premises, shall apply to the making or amending of arrangements under this Article in like manner as it applies in relation to the making or amending of arrangements under that Article, and all such arrangements or amendments made under paragraph (1) of this Article shall be made or (in the case of business premises) made and notified within twenty-one days from the date when the obligation to make the amendments or arrangements first arose, and any such amendments or arrangements directed to be made by an appropriate authority under paragraph (2) of this Article shall be made and notified to that authority within twenty-one days from the date of the directions.

(5) If the occupier of any business premises fails to notify in writing to the appropriate authority within the period specified in the last foregoing paragraph, arrangements or amendments of arrangements under this Article, the appropriate authority may itself make or amend the arrangements, and shall notify the arrangements so made or amended in writing to the occupier of the premises, and they shall come into force as from a date specified by the authority when notifying those arrangements as aforesaid, not being less than three days after the date on which those arrangements were so notified :

Provided that, where the appropriate authority is a local authority, the occupier of the premises or any person working at non-residential premises or living at residential premises to which the arrangements apply or any representative of any such person may, within fourteen days from the date on which the arrangements or amendments were notified to the occupier, appeal by notice in writing to the Regional Commissioner, and the Regional Commissioner may, on any such appeal, approve the arrangements with or without modifications, or may disapprove them, and shall notify his decision in writing to the appropriate authority and the occupier of the premises and, if the appeal was brought by any other person, to that person ; and, if the arrangements or amendments are modified or disapproved they shall have effect in a modified form or, as the case may be, shall cease to be in force, as from a date specified by the Regional Commissioner when notifying his decision to the occupier, not being less than three days after the date on which the decision was notified.

(6) Where any arrangements are made or amended under this Article, Part II of this order shall apply in relation to all the duties under those arrangements in like manner as it applies in relation to arrangements which relate to fire guard duties only, and accordingly references in the said Part II and in the Second Schedule to this order to fire guard duties shall be construed as including references to the duties of members of the fire brigade or the civil defence services aforesaid (hereafter in this Article referred to as fire brigade duties and civil defence duties respectively), subject, however, to the following modifications :—

- (a) the occupier or the appropriate department may, whether or not all the male persons liable under Article 11 of this order to perform duties outside their working hours have been required to perform those duties, make agreements with any persons (being persons with whom agreements may be made under paragraph (2) of Article 10 of this order), for the voluntary performance outside their working hours of fire brigade duties or civil defence duties ;
- (b) the occupier (on the direction of the appropriate authority) or the appropriate department may require women who have attained the age of 20 and not the age of 45—
  - (i) to perform first-aid duties and such other fire brigade or civil defence duties as may be specified during their working

- hours, whether or not all the male persons liable to perform duties during their working hours under Article 10 of this order have been required to perform those duties ;
- (ii) to perform the said duties outside their working hours, whether or not all the male persons liable under Article 11 of this order to perform duties outside their working hours have been required to perform those duties ;
  - (c) for the purpose of calculating the number referred to in paragraph (1) of Article 13 of this order, the requirements of the arrangements, so far as they are satisfied by the performance of duties under agreements made in accordance with sub-paragraph (a) hereof or by the performance of duties by women in accordance with sub-paragraph (b) hereof, shall be deemed to be reduced to that extent ;
  - (d) paragraph (4) of the said Article 13 shall have effect as if it required all persons trained in any fire brigade or civil defence duties to be included in category (a) ;
  - (e) references to paid fire guards shall include reference to whole-time members of the fire brigade and whole-time members of any civil defence service ;
  - (f) directions under Article 22 of this order shall secure that persons performing fire brigade and civil defence duties are under the charge of their own officers, and paragraphs (3) and (4) of the said Article and Article 23 of this order shall not apply to persons performing civil defence duties ;
  - (g) Article 24 of this order shall have effect as if paragraph (1) thereof provided, in addition to the instruction and training therein mentioned, for instruction and training in fire brigade and civil defence duties ;
  - (h) references in Article 26 of this order to fire posts and fire guard equipment shall be construed as including references to any posts or stations established in connection with the said fire brigade and civil defence services and appliances and equipment used in connection therewith.

(7) The said fire brigade and civil defence duties shall as far as possible be performed by persons who state a preference for those duties or volunteer to perform them (whether alone or in conjunction with fire guard duties) and, if and in so far as the said duties are required to be performed by other persons, those persons shall be selected by agreement between the occupier or appropriate department and the persons liable to perform the said duties or their representatives or, in default of agreement, by lot :

Provided that any persons who have been required by the local authority to perform fire guard duties at the premises, shall not be liable to perform any fire brigade duties or civil defence duties. [598]

#### PART IV

##### *Miscellaneous and General*

30.—(1) Where arrangements are in force under this order for any premises, the occupier of the premises, if they are business premises, or the appropriate department for the premises, if they are government premises, shall keep a record of the names of persons performing duties under the arrangements (including persons directed by a local authority under the Fire Guard (Local Authority Services) Order, 1943, to perform such duties), and of the times when they are on duty, or attend for instruction and training in such duties showing, in the case of any failure to be on duty or attend,

the name of the person so failing, the reason for the failure, and, if his place was taken by another person, the name of that other person.

(2) A record kept under this Article in respect of business premises may be inspected by any person authorised by the appropriate authority or by a person of a class so authorised.

(3) Where any person performing duties under arrangements in force under this order for any premises (including any person directed by a local authority as aforesaid) is required, when on duty or attending for instruction and training in such duties, to sign any register of attendances kept by the occupier of the premises, if they are business premises, or the appropriate department for the premises, if they are government premises, he shall comply with that requirement. [599]

31. It shall be a defence to any proceedings in respect of any failure to comply with any requirement of this order as to the performance of duties, attendance for instruction and training or the taking part in training exercises for the person charged to prove that his failure was due to illness or other reasonable cause. [600]

32.—(1) Arrangements approved under this order or under the Fire Prevention (Business Premises) Order, 1941, or under the Fire Prevention (Business Premises) (No. 2) Order, 1941, or under the Fire Prevention (Government Premises) Order, 1942, shall not be treated as invalid on the ground that—

- (a) the persons working or living at the premises or their representatives were not consulted in accordance with Article 5 of this order, in the case of business premises, or Article 6 of this order, in the case of government premises if it is shown that the occupier of or, as the case may be, the appropriate department for the premises gave a reasonable opportunity to those persons or their representatives to express their views with respect to the arrangements and the manner in which they were to be carried out and that they failed to avail themselves of that opportunity ; or
- (b) in the case of business premises, the arrangements were notified to the appropriate authority after the expiration of the period specified in Article 5 of this order or, in the case of arrangements notified before the coming into operation of this order, the period specified in Article 2 of the Fire Prevention (Business Premises) Order, 1941, or Article 3 of the Fire Prevention (Business Premises) (No. 2) Order, 1941, as the case may be ; or
- (c) in the case of government premises, the arrangements were made after the expiration of the period specified in Article 6 of this order or, in the case of arrangements notified before the coming into operation of this order, the period specified in Article 3 of the Fire Prevention (Government Premises) Order, 1942, as the case may be ; or
- (d) the arrangements fail to provide for any thing for which provision is required by this order, or provide for any thing for which provision is not so required.

(2) Any change of appropriate authority in relation to any business premises shall not affect the validity of any arrangements in force under this order for the premises, and any thing done by or to the former appropriate authority, including any agreement made with another appropriate authority under Article 35 of this order with respect to the exercise of functions under this order, but not including any delegation of such functions, shall be deemed to have been done by or to the new appropriate authority.

(3) Any change in appropriate department in relation to any government premises shall not affect the validity of any arrangements in force under this order for the premises, and any thing done by or to the former appropriate department, including any agreement made with another appropriate department under Article 36 of the order with respect to the exercise of functions under this order, but not including any delegation of such functions, shall be deemed to have been done by or to the new appropriate department.

(4) In any criminal proceedings under this order in relation to any premises, the production of a document purporting to be a copy of the arrangements in force under this order for those premises at the time specified in the document, and to be signed by or on behalf of the appropriate authority or, as the case may be, the appropriate department, shall be sufficient evidence that those arrangements were so in force at that time, unless the contrary is shown.

(5) Where, in any criminal proceedings under this order, it is necessary to show that the defendant is or was at any particular time within particular limits of age, he shall be presumed to be or to have been at that time within those limits of age, unless the contrary is proved :

Provided that, if it appears to the court that there are any special circumstances giving rise to doubt as to the matter aforesaid, the court may require the matter to be proved by the prosecution. [601]

**33.**—(1) When arrangements are in force for any business premises, the occupier of the premises shall at any time when requested by the appropriate authority or when any substantial change occurs notify the appropriate authority in writing of the manner in which turns of duty are fixed under this order, and the length and frequency of those turns.

(2) The appropriate authority may from time to time by notice in writing require the occupier of any business premises to furnish such information as may be specified in the notice, being information required by the authority for the performance of its functions under this order, and in particular may require him to furnish the names and addresses of, in the case of non-residential premises, all persons working at the premises or, in the case of residential premises, all persons living at the premises, who, in the case of male persons, have attained the age of 18 and not the age of 63 or, in the case of women, have attained the age of 20 and not the age of 45, and the numbers specified on the identity cards issued to those persons under the National Registration Act, 1939, and to state which of those persons are exempted under the Fire Guard (Medical and Hardship Exemptions) Order, 1943, or Article 11 of or the Second Schedule to this order, and the extent and grounds of their exemption.

(3) The last foregoing paragraph shall apply to premises which are deemed to be government premises under Article 2 of this order and, in relation to such premises, shall have effect as if for the references to the appropriate authority there were substituted references to the appropriate department.

(4) It shall be the duty of all persons working at any non-residential premises to which this order applies or living at any residential premises to which this order applies to furnish to the occupier of the premises, if they are business premises or premises which are deemed to be government premises under Article 2 of this order, or the appropriate department for the premises, if they are government premises (other than premises deemed to be government premises), such information (including their addresses) as the occupier or department may require for the purpose of complying with his or its obligations under this order. [602]

**34.**—(1) Where after the date on which this order applies to any premises, not being premises for which (in conjunction with other premises) joint arrangements are in force under this order, any of the following changes occur—

- (a) in the case of business premises, a new occupier comes into occupation of the premises ;
- (b) in the case of government premises, the premises become occupied by or for the purposes of a different department ; or
- (c) any business premises become government premises or vice versa ;

any arrangements in force for the premises under this order shall cease to be in force :

Provided that—

- (i) in the case of any such change as is mentioned in sub-paragraph (a) hereof the new occupier may, within seven days after coming into occupation of the premises, notify in writing to the appropriate authority that the change of occupation does not involve any substantial change in the use of the premises or in the persons working thereat, and in that case, unless the appropriate authority otherwise direct, any arrangements in force for those premises shall continue in force and be deemed not to have ceased to be in force ;
- (ii) in the case of any such change as is mentioned in sub-paragraph (b) hereof, the new department may, within seven days after the change, if it is satisfied that no substantial alteration in the use of the premises or in the persons working thereat is involved, direct that any arrangements in force for the premises shall continue in force.

(2) Where joint arrangements are in force under this order for any premises, and any such change as aforesaid occurs, the arrangements shall continue to apply to the premises, notwithstanding the change, and any agreement made or directions given under the First Schedule to this order as respects the appropriate authority for the premises shall remain in force, but without prejudice to the provisions of this order relating to the amendment of arrangements and the substitution of new arrangements.

(3) Where any person ceases to occupy any business premises, he shall forthwith notify the authority which was the appropriate authority for the premises immediately before he ceased to occupy them. [603]

**35.**—(1) Subject to the provisions of this Article and to the First Schedule to this order, the appropriate authority for the purposes of this order shall be—

- (a) in relation to any premises deemed to be business premises, the Minister ;
- (b) in relation to any police premises, the Secretary of State ;
- (c) in relation to any factory premises or commercial premises occupied by the London Passenger Transport Board for the purposes of road or rail transport or forming part of any railway, canal, inland navigation, dock or harbour undertaking, the Minister of War Transport ;
- (d) in relation to any factory premises, commercial premises or local government premises forming part of any electricity undertaking, the Electricity Commissioners ;
- (e) in relation to any factory premises, commercial premises or local government premises forming part of any gas undertaking, the Minister of Fuel and Power ;



- (f) in relation to any factory premises, commercial premises or local government premises forming part of any water undertaking, the Minister of Health ;
- (g) in relation to any mine to which the Coal Mines Act, 1911, or the Metalliferous Mines Regulation Act, 1872 (as amended by section nineteen of the Mining Industry Act, 1920), applies or any quarry within the meaning of the Quarries Act, 1894 (as amended by section one hundred and fifty-eight of the Factories Act, 1937), being a mine or quarry in or about which more than thirty persons work, the Minister of Fuel and Power ;
- (h) in relation to any petroleum premises, the Minister of Fuel and Power ;
- (i) in relation to any factory premises or commercial premises, not being premises previously mentioned in this paragraph, as respects which the Minister designates a government department or the Regional Commissioner as the appropriate authority, that department of the Regional Commissioner ;
- (k) in relation to any factory premises or commercial premises as respects which any government department has assumed responsibility for passive air defence, not being premises previously mentioned in this paragraph, that department ;
- (l) in relation to any factory premises or commercial premises, not being premises previously mentioned in this paragraph, the local authority in whose area the premises are situated ;
- (m) in relation to any unoccupied premises or residential premises, not being premises previously mentioned in this paragraph, the local authority ;
- (n) in relation to any premises used for public worship, the local authority or, if the Minister designates any other authority, body or person, that authority, body or person ;
- (o) in relation to any local government premises, not being premises previously mentioned in this paragraph, the Regional Commissioner ;
- (p) in relation to any premises other than commercial premises, factory premises, local government premises or government premises, not being premises previously mentioned in this paragraph, the Regional Commissioner or if the Regional Commissioner designates any other authority, body or person, that authority, body or person :

Provided that—

- (i) in relation to any premises for which the Minister of Labour and National Service was the appropriate authority under the Fire Prevention (Business Premises) (No. 2) Order, 1941, immediately before the coming into operation of this order, the said Minister shall be the appropriate authority under this order for a period of three months from the date on which this order comes into operation or, if the Minister prescribes a shorter period as respects the premises in any area, for that shorter period, unless the Minister designates a government department as the appropriate authority before the expiration of the said period of three months or, as the case may be, any such shorter period as may be prescribed ;
- (ii) any office premises of a gas undertaking of a local authority or any premises of such an undertaking used for the sale or display of apparatus, appliances and accessories, shall not be deemed to form part of the undertaking unless they form part of premises used for the manufacture or storage of gas or its by-products or for the repair of mains, meters, apparatus or appliances.



(2) The appropriate authority for any business premises (other than premises for which joint arrangements are in force) may, for the purpose of administrative efficiency, agree to the exercise by another authority referred to in the foregoing provisions of this Article of all or any of its functions in relation to the premises, and, while the agreement is in force, that other authority shall be deemed to be the appropriate authority for the premises.

(3) If any doubt or dispute arises as to which authority is the appropriate authority for any premises, it shall be referred to the Minister whose decision shall be final.

(4) Any appropriate authority may, to such extent and subject to such conditions as it thinks proper, delegate, either in relation to all the premises for which it is the appropriate authority or any of those premises or any class of those premises, all or any of its functions under this order, including power to make agreements under paragraph (2) of this Article, to any other appropriate authority or an appropriate department or any specified person or class of persons :

Provided that, unless the Regional Commissioner otherwise directs, this paragraph shall not apply to any appropriate authority which is a local authority, without prejudice to any power of that authority to delegate any of its functions to a committee.

(5) Where there is any change of appropriate authority in relation to business premises, the occupier of the premises shall be notified by the old authority and shall cause at least one notice of that fact to be displayed at the premises in a prominent position where it can be easily read.

(6) In this Article—

- (a) the expression “commercial premises” means any premises occupied wholly or partly for the purpose of any business, trade or profession, not being factory premises or local government premises ;
- (b) the expression “factory premises” means any premises being a factory within the meaning of section one hundred and fifty-one of the Factories Act, 1937, or a dock, wharf or warehouse to which any of the provisions of that Act apply, but does not include any local government premises ;
- (c) the expression “local government premises” means premises occupied by a local authority or county council for the purpose of discharging any of its functions ;
- (d) the expression “petroleum premises” means—
  - (i) premises used or adapted for use solely or primarily for the production, blending, storage or distribution of petroleum or any product of petroleum, within the meaning of the Petroleum (No. 3) Order, 1940, other than premises which are used or adapted for use for the retail sale of petroleum or any product thereof to the public and are not operated by the Petroleum Board or in which there is stored petroleum or any product thereof for the sole purpose of being consumed by the occupier of the premises ;
  - (ii) motor repair centres and garages occupied solely by the Petroleum Board ; and
  - (iii) service stations operated by the Petroleum Board. [604]

**36.**—(1) Subject to the provisions of this Article and to the First Schedule to this order, the appropriate department for the purposes of this order shall be—

- (a) in relation to any premises occupied by or for the purposes of a government department, the government department by which or for the purposes of which the premises are occupied ;
- (b) in relation to premises occupied for the purposes of the National Fire Service, the Secretary of State ;
- (c) in relation to any unoccupied premises the right to possession of which is vested in the Admiralty, the War Department or the Air Ministry, that department ;
- (d) in relation to any unoccupied premises the right to possession of which is vested in the Crown or any other government department, the Minister of Works :

Provided that—

- (i) any appropriate department may agree to the exercise by another appropriate department or by an appropriate authority of any of its functions under this order ;
- (ii) in the case of premises vested in a government department and used for the purposes of another government department, the last-named department shall, unless the Treasury otherwise directs, be the appropriate department ;
- (iii) in the case of premises occupied by or for the purposes of a government department which is subordinate to another government department, the Treasury may direct that the last-named department shall be the appropriate department.

(2) Any appropriate department may, to such extent and subject to such conditions as it thinks proper, delegate all or any of its functions under this order to any other appropriate department or an appropriate authority or any specified person or class of persons.

(3) Where there is any change of appropriate department in relation to any government premises, the new appropriate department shall cause at least one notice of that fact to be displayed at the premises where it can be easily read. **[605]**

**37.** If any question arises as to whether any premises are occupied by or for the purposes of a government department, it shall be referred to and determined by the Minister, and the Minister may give directions as respects any premises or class or description of premises to which this order applies, being premises occupied by or for the purposes of an institution or body of a public character, that the premises are to be treated as government premises for the purposes of this order, and any such directions shall specify the government department, authority or person who is to be the appropriate department for the premises. **[606]**

**38.**—(1) This order shall in its application to the Royal Palace of Westminster, have effect subject to the following modifications :—

- (a) the appropriate department shall be the fire committee appointed by the Lord Great Chamberlain under Regulation three of the Defence (Palace of Westminster Fire Prevention) Regulations, 1941 ;
- (b) for references to persons who work at premises to which this order applies there shall be substituted references to persons employed, whether by the Crown or any other person, at the Royal Palace of Westminster (including persons employed on terms which require

them to be present during the sittings of Parliament or any part thereof at any place where Parliament is sitting for the time being), but persons employed at the Palace on such terms that normally the number of hours in each week for which they are required by those terms to work at the Palace, or any other place where Parliament is sitting for the time being, is less than the number of hours for which they are so required to work elsewhere shall be deemed not to work at the Palace.

(2) The said fire committee shall have power to act notwithstanding a vacancy among the members thereof, and at any meeting of the committee two, or such greater number as the committee may determine, shall be a quorum; and the Lord Great Chamberlain may, after consulting the Lord Chancellor, the Speaker of the House of Commons and the Minister of Works, fill up any vacancy among the members of the fire committee.

(3) When Parliament is for any period sitting at premises other than the Palace of Westminster, this order shall apply to those premises in like manner as it applies to the Palace of Westminster. [607]

39.—(1) The Minister may, to such extent and subject to such restrictions as he thinks proper, delegate to a Regional Commissioner any functions exercisable by him under this order.

(2) The Minister may, if he thinks fit, direct that any powers conferred by this order specifically on the Regional Commissioner shall be exercised by the Minister instead of by the Regional Commissioner.

(3) The Minister may delegate any powers exercisable by him under Article 17 of this order to any appropriate authority, other than a local authority, or to any appropriate department. [608]

40.—(1) In this order, except so far as the contrary is expressly provided, the following expressions have the meanings respectively assigned to them, that is to say:—

“business premises” means all premises to which this order applies, other than government premises;

“chief officer of police” has the same meaning as in the Police Pensions Act, 1921, and also includes the chief constable of a joint force established under the Defence (Amalgamation of Police Forces) Regulations, 1942;

“civil defence service” means any ambulance, civil defence messenger, decontamination, first aid, report and control, rescue or warden service and also includes, except in Part III of this order, any service combining any of the purposes of any such services as aforesaid;

“compulsory enrolment area” means any area to which the provisions of the Fire Guard (Local Authority Services) Order, 1943, relating to registration and compulsory enrolment apply;

“fire post” means any place which under arrangements in force under this order is required to be manned by fire guards in the event of a hostile attack or a warning of such an attack;

“fire guard duties” and “working hours” have the same meanings as in Regulation five of the Defence (Fire Guard) Regulations, 1943;

“government premises” means any premises to which this order applies being—

(a) premises occupied by or for the purposes of a government department,

(b) unoccupied premises the right to possession of which is vested in the Crown or any government department,

- (c) the Royal Palace of Westminster,
- (d) premises which, by virtue of directions given by the Minister under Article 37 of this order, are treated as government premises,
- (e) premises which, by virtue of an agreement made under paragraph (4) of Article 2 of this order or directions given under paragraph (7) of that Article, are for the time being deemed to be government premises,

but does not include any premises which, by virtue of any such agreement or directions as aforesaid, are deemed to be business premises ;

“ hours of darkness ” means the period from half an hour before the hours of darkness, as defined for the purpose of the Lighting (Restrictions) Order, 1940 (other than Part III thereof), to half an hour after the said hours of darkness ;

“ local authority ” means the Common Council of the City of London, the council of a metropolitan borough, or the council of a county borough or county district ;

“ the Minister ” means the Minister of Home Security ;

“ paid fire guard ” means a person employed by the occupier of or appropriate department for premises for which arrangements are in force under this order to perform fire guard duties under the arrangements for remuneration other than a subsistence allowance ;

“ period of four weeks ” means the period of four weeks beginning at 12 noon on the 26th July, 1943, and any period of four weeks beginning at 12 noon on a date exactly four weeks, or an exact multiple of four weeks, after the first-mentioned date ;

“ period of twelve weeks ” means the period of twelve weeks beginning at 12 noon on the 26th July, 1943, and any period of twelve weeks beginning at 12 noon on a date exactly twelve weeks, or an exact multiple of twelve weeks, after the first-mentioned date ;

“ police premises ” means any premises occupied for the purpose of a police force as defined by section thirty of the Police Pensions Act, 1921, or a joint force established under the Defence (Amalgamation of Police Forces) Regulation, 1942, and includes police section houses but not any other residential premises, and also includes any premises which are for the time being deemed to be police premises by virtue of an agreement under paragraph (8) of Article 2 of this order ;

“ prescribed ” means prescribed by directions given by the Minister ;

“ residential premises ” means any premises occupied wholly or mainly for residential purposes including premises occupied as a hotel, boarding house or lodging house, and “ non-residential premises ” shall be construed accordingly ;

Provided that any premises occupied partly as a shop or farm and any premises occupied as a hotel, boarding house or lodging house at which more than five persons (including the occupier and members of his family) are employed or occupied in the business of the hotel, boarding house or lodging house shall not be deemed to be residential premises ;

“ shop ” has the same meaning as in the Shops Acts, 1912 to 1938.

(2) For purposes of this order—

- (a) in relation to such police premises as may be prescribed, the Receiver for the Metropolitan Police District shall be deemed to be the occupier, and in relation to other police premises, the chief officer of police shall be deemed to be the occupier ;

- (b) in relation to any such premises, other than police premises, as may be directed by the Minister, the authority, body or person specified in the directions shall be deemed to be the occupier ;
- (c) subject as aforesaid, in relation to any unoccupied premises, the person entitled to occupy them shall be deemed to be the occupier.

(3) References in this order to the performance by any person of fire guard duties outside his working hours shall, in the case of a person required to perform fire guard duties under any arrangements in force under this order by reason that he lives at residential premises to which the arrangements apply or any person who does not work at premises to which the arrangements apply and voluntarily agrees, or is directed by a local authority, to perform duties thereunder, be construed as referring to the performance by him of fire guard duties under those arrangements at any time, and, in the case of a person under the age of 18 who voluntarily agrees under Article 15 of this order to perform duties under arrangements in force for the premises at which he is being educated or instructed, shall be construed as referring to the performance by him of those duties outside the periods during which he is being educated or instructed.

(4) For the purpose of any provision of this order relating to representatives, the persons working at any non-residential premises to which this order applies shall—

- (a) in so far as they have trade union representatives or representatives appointed by an organisation holding a certificate of approval under the Civil Service (Approved Associations) Regulations, 1927, be entitled to be represented by those representatives ;
- (b) in so far as they are members of the Police Federation, be entitled to be represented by Branch Boards of that federation ;
- (c) in so far as they are members of the Auxiliary Police Association, be entitled to be represented by local committees of that association.

(5) Any reference in this order to any Regulations, Regulation or order shall be construed as a reference to those Regulations or that Regulation or that order as amended by any subsequent Regulations, Regulation or order.

(6) For the purposes of this order, where joint arrangements or combined arrangements are in force under this order for several premises, all those premises shall be treated as if they were single premises, and, in the case of joint arrangements, any person who works at one of the said premises shall be treated as if he worked at all the said premises and each of the occupiers thereof shall be treated as if he were the occupier of all the said premises, and any reference in this order to the occupier of premises to which arrangements relate shall, unless the context otherwise requires, be construed as a reference to all the said occupiers :

Provided that the occupiers of premises for which joint arrangements are in force under this order may agree, and, in default of agreement, the appropriate authority may direct, that one or more of those occupiers shall be treated, except for the purpose of the apportionment of expenses, as if he only were the occupier, or they only were the occupiers of all the said premises, and any reference in this order to the occupier of premises to which the arrangements relate shall, unless the context otherwise requires, be construed as a reference to the said occupier or occupiers.

(7) For the purposes of this order, a person employed or occupied in any business, trade or profession carried on at any premises or for any other purposes for which the premises are used, being a person whose work is not performed at those premises, shall—

- (a) if the conditions of his work normally require him to attend at any such premises at the beginning or end of his daily period of work, be deemed to work at those premises ;
- (b) if the conditions of his work do not require him to attend as aforesaid but require him to report regularly at any such premises at least once a week, be deemed to work at those premises :

Provided that, in the case of business premises, the appropriate authority, by directions given to the occupier of the premises, or, in the case of government premises, the appropriate department may direct that any person who is required by his work to travel from place to place and for that reason to sleep away from his ordinary place of residence on at least two nights a week shall not be deemed to work at those premises.

(8) For the purposes of this order, a whole-time constable attached to a police station shall be deemed to work at the police station to which he is attached, and not elsewhere.

(9) For the purposes of this order, a person shall be deemed to be living in any building or premises if he normally sleeps there on not less than three nights a week. [609]

**41.** In the application of this order to Scotland—

- (a) the expression “ the Minister ” shall mean either the Minister of Home Security or the Secretary of State ;
- (b) for references to the Minister of Health there shall be substituted references to the Secretary of State ;
- (c) Article 27 and Article 28 of this order shall have effect as if the word “ summarily ” were omitted therefrom ;
- (d) the expression “ local authority ” shall mean county or town council, and in sub-paragraph (c) of paragraph (6) of Article 35 of this order for the words “ county council ” there shall be substituted the words “ district council ”. [610]

**42.**—(1) The Fire Prevention (Business Premises) (No. 2) Order, 1941, the Fire Prevention (Business Premises) Order, 1942, the Fire Prevention (Business Premises) (No. 2) Order, 1942, the Fire Prevention (Business Premises) (No. 3) Order, 1942, the Fire Prevention (Business Premises) (No. 4) Order, 1942, and the Fire Prevention (Historic Buildings) Order, 1942, shall be revoked.

(2) The Fire Prevention (Government Premises) Order, 1942, and the Fire Prevention (Government Premises) (No. 2) Order, 1942, shall be revoked.

(3) The Defence (Palace of Westminster Fire Prevention) Regulations, 1941, shall be revoked. [611]

**43.**—(1) Any arrangements made under the Fire Prevention (Business Premises) (No. 2) Order, 1941, or under the Fire Prevention (Government Premises) Order, 1942, or under the Defence (Palace of Westminster Fire Prevention) Regulations, 1941, and in force immediately before the coming into operation of this order, shall be deemed to have been made and approved under this order and shall continue in force accordingly :

Provided that it shall be the duty of every occupier of premises to which any such arrangements apply to make and notify to the appropriate authority, and of every appropriate department to make, in accordance with Part I of this order, such amendments of the arrangements as may be necessary in consequence of the making of this order.

(2) Any arrangements for the performance of fire guard duties which were being carried out immediately before the coming into operation of this



order at any premises to which this order applies, but to which the Fire Prevention (Business Premises) (No. 2) Order, 1941, or the Fire Prevention (Government Premises) Order, 1942, did not apply, shall be deemed to have been made and approved under this order and shall continue in force accordingly :

Provided that it shall be the duty of every occupier of premises to which any such arrangements apply to make and notify to the appropriate authority and of every appropriate department to make, in accordance with Part I of this order, such amendments of the arrangements as may be necessary in consequence of the making of this order.

(3) If any occupier of business premises who is required under the proviso to either of the two last foregoing paragraphs to make and notify to the appropriate authority amendments of arrangements for the premises, fails to do so, the appropriate authority shall itself make such amendments in accordance with Part I of this order.

(4) Any agreement, approval, disapproval, notification, report, directions, exemption, delegation or designation given, made or effected under the Fire Prevention (Business Premises) (No. 2) Order, 1941, or under the Fire Prevention (Government Premises) Order, 1942, or under the Defence (Palace of Westminster Fire Prevention) Regulations, 1941, shall, if in force immediately before the coming into operation of this order, be deemed to have been given, made or effected under the corresponding provision of this order, and any directions prescribing an area for the purposes of Article 1 of the said Fire Prevention (Business Premises) (No. 2) Order, 1941, or applying that order or the said Fire Prevention (Government Premises) Order, 1942, to any premises, or excepting any premises from the last named order shall be deemed to apply this order to those premises, or as the case may be, except those premises from this order.

(5) Where the appropriate authority have at the date of the coming into operation of this order power under any provision of the Fire Prevention (Business Premises) (No. 2) Order, 1941, to make arrangements for any business premises by reason of the failure of the occupier thereof to make and notify arrangements for the premises within the period required by the Fire Prevention (Business Premises) (No. 2) Order, 1941, the said power shall be exercisable under the corresponding provision of this order.

(6) Any agreement made or directions given under the Fire Prevention (Business Premises) (No. 2), Order, 1941, or the Fire Prevention (Government Premises) Order, 1942, and in force immediately before the coming into operation of this order providing that any group of premises comprising both business and government premises are all to be deemed to be premises to which one or other of the said orders applied shall be deemed to be an agreement made or directions given under this order providing that all the said premises are to be deemed for the purposes of this order to be business or government premises, as the case may be.

(7) References in any document to the Fire Prevention (Business Premises) (No. 2) Order, 1941, or the Fire Prevention (Government Premises) Order, 1942, or the Defence (Palace of Westminster Fire Prevention) Regulations, 1941, or to any provision thereof shall be construed as references to this order or to the corresponding provision thereof. [612]

44.—(1) This order may be cited as the Fire Guard (Business and Government Premises) Order, 1943.

(2) This order shall come into operation on the twentieth day of September, nineteen hundred and forty-three. [613]

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## FIRST SCHEDULE

*Provisions as to joint and combined arrangements*

1. Where joint or combined arrangements for a group of business premises comprising premises for which there are different appropriate authorities are made under Article 2 of this order by the occupiers of the premises, without any directions by an appropriate authority or the Minister, the arrangements shall in the first instance be notified to the several authorities, but thereafter, in relation to those arrangements, such one of those authorities as may be agreed between those authorities or, in default of agreement, directed by the Minister, shall be the appropriate authority for all the premises in the group.

2. Any agreement between appropriate departments for the making of joint arrangements for a group of government premises under Article 2 of this order shall provide for the making of those arrangements by one of those departments and, in relation to those arrangements, that department shall be the appropriate department for all the premises in the group.

3. Where any agreement made under paragraph (4) or directions given under paragraph (7) of Article 2 of this order provide for the making of joint arrangements for a group of premises comprising business and government premises then—

- (a) if all the premises are deemed to be business premises, the appropriate department or departments for the government premises concerned shall be deemed to be the occupier or occupiers of those premises, and the appropriate authority for all the premises in the group shall be, in the case of an agreement under the said paragraph (4), such one of the appropriate authorities concerned as may be agreed between those authorities or, in default of agreement, as may be directed by the Minister, or, in the case of directions under the said paragraph (7), the department by which the directions were given ;
- (b) if all the premises are deemed to be government premises, the appropriate department for all the premises in the group shall be, in the case of an agreement under the said paragraph (4), such one of the appropriate departments concerned as may be agreed between those departments or, in default of agreement, as may be directed by the Minister, or, in the case of directions under the said paragraph (7), the department by which the directions were given.

4. Any power exercisable under paragraph (5) of Article 2 or Article 9 of this order by an appropriate authority to direct the making of, or to make, joint arrangements for a group of business premises shall be exercised, in relation to a group comprising premises for which there are different appropriate authorities, by such one of those authorities as may be agreed between those authorities or, in default of agreement, directed by the Minister, and, in relation to such arrangements, that authority shall be the appropriate authority for all the premises in the group.

5. Where the Minister under paragraph (6) of Article 2 of this order directs the making of joint arrangements for a group of business premises comprising premises for which there are different appropriate authorities, such one of those authorities as may be specified in the directions shall, in relation to those arrangements, be the appropriate authority for all the premises in the group.

6. Where an appropriate authority or appropriate department becomes, in accordance with any of the provisions of this Schedule, the appropriate authority for any business premises or the appropriate department for any premises which are deemed to be government premises, the old authority or department shall notify that fact to the occupiers of the premises. [614]

## SECOND SCHEDULE

*Persons exempted from duties*

## PART I

*Persons exempted from all fire guard duties*

1. The following persons shall be exempted from all fire guard duties under this order :—

- (a) any member of the armed forces of the Crown (including a member of the Women's Royal Naval Service, the Auxiliary Territorial Service, the Women's Auxiliary Air Force or the Auxiliary Coastguard but not including a member of the Home Guard or any person who has not been called out for, or has been released from actual service) ;
- (b) any member of the naval, military or air forces of any foreign Power engaged, in alliance with His Majesty, in any war in which His Majesty is also engaged ;
- (c) any whole-time member of the Royal Observer Corps ;
- (d) any pilot holding a licence issued under the Pilotage Act, 1913, or a deep sea certificate granted by a pilotage authority authorised by a Pilotage Order to grant such certificates ;
- (e) any master or member of the crew of a ship engaged in sea-going service ;
- (f) any person who—
  - (i) is the subject of an order or inquisition under the Lunacy and Mental Treatment Acts, 1890 to 1930 ;
  - (ii) is being detained in pursuance of section twenty-five of the Lunacy Act, 1890, or as a criminal lunatic, or in pursuance of an order made under the Criminal Lunatics Act, 1884 ; or
  - (iii) is undergoing treatment as a temporary patient under section five of the Mental Treatment Act, 1930 ; or
  - (iv) is a person placed in an institution or a certified house or under guardianship, under section three of the Mental Deficiency Act, 1913, or is the subject of an order under section six, eight or nine of that Act, or is under supervision provided under paragraph (b) of section thirty of that Act, or is an inmate of a home approved under section fifty of that Act, or is the subject of a notification under subsection (2) of section fifty-one of that Act ; or
  - (v) is the subject of an order or warrant for his detention or custody under the Lunacy (Scotland) Acts, 1857 to 1919, or is being entertained and kept in an asylum in pursuance of section fifteen of the Lunacy (Scotland) Act, 1866, as read with section fifty-nine of the Mental Deficiency and Lunacy (Scotland) Act, 1913, or is a person for whose safe custody during His Majesty's pleasure His Majesty is authorised to give order or is a person whom the Secretary of State or the Prisons Department for Scotland has, in pursuance of any Act, directed to be removed to a criminal lunatic asylum or to the criminal lunatic department of Perth prison or to an asylum, or is a person placed in an institution or certified house or under guardianship under section four of the Mental Deficiency and Lunacy (Scotland) Act, 1913, or is the subject of an order under section seven, nine or ten of that Act ;
- (g) any person certified by a local authority, as defined by the Blind Persons Acts, 1920 and 1938, to be registered as a blind person under arrangements made by the authority under those Acts ;
- (h) any deaf and dumb person :

Provided that nothing in this paragraph shall prejudice a member of the armed forces of the Crown being required to perform fire guard duties in accordance with instructions issued by the Admiralty, the Army Council or the Air Council, as the case may be.

2. A woman who holds a certificate signed by a duly qualified medical practitioner or by a certified midwife certifying that she is pregnant shall be exempted

from all fire guard duties under this order during the period of pregnancy and for six weeks thereafter.

3. Where it appears to any government department that any person ought, having regard to the nature or length of hours of his work and to any circumstances affecting the public interest, to be exempted from fire guard duties under this order, they may grant to him a certificate of exemption and any person who holds such a certificate or a certificate of exemption granted by a government department under paragraph (3) of Article 10 of the Fire Guard (Local Authority Services) Order, 1943, shall be exempted from all fire guard duties under this order.

## PART II

### *Persons exempted from all fire guard duties except duties during their working hours*

1. A woman shall be exempted from all fire guard duties under this order, except duties during her working hours under arrangements in force for any non-residential premises, during any period throughout which a child (whether her own or not) under the age of fourteen is wholly or mainly in her care and is living and sleeping where she lives and sleeps.

2.—(1) The following persons shall be exempted from all fire guard duties under this order except duties during their working hours under arrangements in force for any non-residential premises :—

- (a) a member of the Home Guard ;
- (b) a person holding a commission in the Royal Naval Volunteer Reserve, the Territorial Army Reserve or the Royal Air Force Volunteer Reserve who is posted for duty (whether whole-time or part-time) with any of the following cadet organisations, that is to say, a University Naval Division, the Sea Cadet Corps, the Senior Training Corps, the Junior Training Corps, the Army Cadet Force or the Air Training Corps ;
- (c) a part-time member of the Royal Observer Corps ;
- (d) a part-time special constable or a part-time member of the police war reserve or the women's auxiliary police corps :

Provided that nothing in this paragraph shall prevent a member of the Home Guard or a part-time constable from being required in accordance with the instructions of the Army Council or, as the case may be, the chief officer of police to perform fire guard duties at any premises where he performs duties as such a member or as a constable during periods for which he performs those duties.

(2) In this paragraph the expression " special constable " means—

- (a) a special constable appointed under any of the provisions of the Special Constables Act, 1831, as amended by the Special Constables Acts, 1914 and 1923, or appointed under section one hundred and ninety-six of the Municipal Corporations Act, 1882 ;
- (b) a special constable appointed under the provisions of the Special Constables (Scotland) Acts, 1892 to 1923, as amended by Regulation 40AB of the Defence (General) Regulations, 1939, or under the corresponding provisions of any local Act ;
- (c) a person appointed to act as a constable under section three of the Special Constables Act, 1923, as extended by Regulation 40AA of the Defence (General) Regulations, 1939.

3. Any person, not being a person referred to in sub-paragraph (1) (b) of the last foregoing paragraph, who—

- (a) is enrolled in one of the cadet organisations referred to in the said sub-paragraph for duty as an instructor ; or
- (b) is in whole-time employment and is a cadet enrolled in one of the said cadet organisations ;

and, in either case, produces a certificate from the officer commanding the unit to which he is attached stating that, at the time when the certificate was issued he was enrolled and was attending the unit on not less than three days a week for the purpose of performing duties as an instructor or, as the case may be, as such a cadet,

and that it is expedient for the efficient performance of the said duties that he should be exempted under this paragraph from fire guard duties, shall, so long as he continues to be so enrolled and so to attend and (in the case of a cadet) to be in whole time employment, be exempted from all fire guard duties under this order, except duties during his working hours under arrangements in force for any non-residential premises.

4. Any part-time member of the National Fire Service, other than a member of a works fire brigade, who produces a certificate signed by—

- (a) in the case of a member of a Fire Force, a member of that Force of a rank designated by the Fire Force Commander not below the rank of section leader,
- (b) in any other case, the Chief Regional Fire Officer or a member of the National Fire Service of a class designated by the Secretary of State,

stating that at the time when the certificate was issued, he was performing duties as such a member for periods amounting in the aggregate to not less than forty-eight hours in each period of four weeks, shall, so long as he continues to perform duties as such a member for such periods be exempted from all fire guard duties under this order, except duties during his working hours under arrangements in force for any non-residential premises :

Provided that nothing in this paragraph shall prevent a member of the National Fire Service from being required to perform fire guard duties at any premises where he performs duties as such a member during the periods for which he performs duties as such a member.

5. Any part-time member of a civil defence service who produces a certificate from a local authority, harbour authority or county council that on the 18th January, 1941, or (in the case of a woman) the 15th August, 1942, he or she had undertaken to perform duties as such a member for periods amounting in the aggregate to not less than forty-eight hours in each period of four weeks, shall, so long as he or she continues to perform such duties either for the periods aforesaid or for such less periods as the local authority, harbour authority or county council, with the approval of the Regional Commissioner, decide to be sufficient, having regard to the nature of the duties performed, to justify exemption from fire guard duties, be exempted from all fire guard duties under this order, except duties during his or her working hours under arrangements in force for any non-residential premises :

Provided that nothing in this paragraph shall prevent any person from being required to perform fire guard duties at any premises where he or she performs duties as a member of a civil defence service during the periods for which he or she performs those duties.

6. Any person who produces a certificate signed by or on behalf of the Minister of Health stating that he is a member of the river emergency service of the Port of London Authority and has undertaken to perform duties as such a member for periods amounting in the aggregate to not less than forty-eight hours in each period of four weeks shall, so long as he continues to perform the said duties for the said periods, be exempted from all fire guard duties under this order, except duties during his working hours under arrangements in force for any non-residential premises.

7. Any person who has in compliance with directions given under paragraph (1) of Regulation twenty-nine BA of the Defence (General) Regulations, 1939, entered the service of a local authority, within the meaning of that Regulation, or a harbour authority for employment in a capacity to which Regulation twenty-nine B of the said Regulations applies or who has in pursuance of a requirement under subparagraph (d) of paragraph (1) of the said Regulation twenty-nine B taken up part-time employment in any such capacity as aforesaid, shall, so long as he continues to be so employed for periods amounting in the aggregate to forty-eight hours in each period of four weeks or for such less periods as the local or harbour authority, with the approval of the Regional Commissioner, decide to be sufficient, having regard to the nature of the duties performed, to justify exemption from fire guard duties, be exempted from all fire guard duties under this order, except duties during his working hours under arrangements in force for any non-residential premises :

Provided that nothing in this paragraph shall prevent any such person from being required to perform fire guard duties at the premises where he is employed in any such capacity as aforesaid during the periods for which he is so employed.

8. Any person who is appointed in a part-time capacity to be a fire guard officer, a deputy or assistant fire guard officer, a fire guard staff officer, an assistant fire guard staff officer, a fire guard area captain, a sector captain, a block leader, a street fire party leader or a reserve centre superintendent, or a head fire guard, a senior fire guard or a depot superintendent, in the area of any local authority and produces, in a case where he has been appointed by a local authority, a certificate to that effect, shall, so long as he continues to hold that appointment, be exempted from all fire guard duties under this order, except duties during his working hours under arrangements in force for any non-residential premises :

Provided that nothing in this paragraph shall exempt a block leader or street fire party leader from the performance of fire guard duties at the Palace of Westminster.

9. Any person who produces a certificate signed by or on behalf of the Minister of Health or the Secretary of State for Scotland stating that he is enrolled by a government department, a local authority, a harbour authority or a county council, or any body or person having the management of a hospital, for the purposes of giving assistance without remuneration in connection with the admission or transference of patients in pursuance of arrangements made by the Minister of Health or the Secretary of State for Scotland under paragraph (a) of subsection (1) of section fifty of the Civil Defence Act, 1939, and that at the date of the certificate he was in attendance, elsewhere than at the premises where he works or at the place where he lives for giving such assistance for periods amounting in the aggregate to not less than forty-eight hours in each period of four weeks, shall, so long as he continues to be in attendance for such periods, be exempted from all fire guard duties under this order, except duties during his working hours under arrangements in force for any non-residential premises.

10. Any person who produces a certificate from a local authority for an area to which the Fourth Schedule to the Fire Guard (Local Authority Services) Order, 1943, applies stating that he is required, by virtue of his enrolment under that Schedule, to perform fire guard duties under this order in that area or has undertaken to perform such duties for periods amounting in the aggregate to not less than forty-eight hours in each period of four weeks shall, so long as the certificate is in force, and he continues to perform the said duties or, as the case may be, the said duties for the said periods, be exempted from all fire guard duties under this order, except duties during his working hours under arrangements in force for any non-residential premises.

### PART III

#### *Persons exempted from fire guard duties by the appropriate authority or department and night workers*

1. Where arrangements are in force under this order for any non-residential premises, the appropriate authority for the premises, if they are business premises, or the appropriate department for the premises, if they are government premises, may give directions that any person who works at the premises and performs at or in connection with the premises outside his working hours such duties as the appropriate authority or, as the case may be, the appropriate department may specify for periods amounting in the aggregate to not less than forty-eight hours in each period of four weeks, being duties (other than fire guard duties) undertaken to forestall or mitigate the effects of hostile attack, shall be exempted wholly or partly from fire guard duties under arrangements in force under this order for those premises, except duties during his working hours :

Provided that—

- (a) this paragraph shall not apply to any premises for which arrangements have been made or amended under Part III of this order so as to include provision for civil defence services ;
- (b) any powers exercisable under this paragraph by an appropriate authority shall where the appropriate authority is a local authority be exercised by the Regional Commissioner instead of by the appropriate authority.



2.—(1) Where it appears to the appropriate authority for any business premises, or the appropriate department for any government premises, that the premises are industrial premises used for vital work, they may give directions that any male person who appears to that authority or department to be employed at those premises, or at those premises and other industrial premises, upon such work for exceptionally long hours shall be exempted wholly or partly from fire guard duties under arrangements in force under this order for those premises, except duties during his working hours.

(2) For the purposes of this paragraph—

- (a) the expression “ industrial premises ” includes any premises used for the purposes of road transport undertakings ;
- (b) a person shall be deemed to work at any premises if he is employed at repairing or constructing a ship in connection with the purposes for which those premises are used.

3. Where arrangements are in force under this order for any non-residential premises, the appropriate authority for the premises, if they are business premises or the appropriate department for the premises, if they are government premises may give directions that any woman who appears to that authority or department to be employed at those premises, or at those premises and other non-residential premises, for exceptionally long hours shall be exempted wholly or partly from fire guard duties under arrangements in force under this order for those premises, except duties during her working hours.

4. Where arrangements are in force under this order for any non-residential premises, the appropriate authority for the premises, if they are business premises or the appropriate department for the premises, if they are government premises may give directions that any constable who works at the premises, other than a person referred to in paragraph 5 of the Second Schedule to the Fire Guard (Local Authority Services) Order, 1943, shall be exempted from all fire guard duties under arrangements in force under this order for those premises, except duties during his working hours.

5. Where any person who has been wholly exempted under any of the foregoing paragraphs of this Part of this Schedule from the performance of fire guard duties outside his working hours under arrangements in force for the premises at which he works, lives at any residential premises for which arrangements are in force under this order and produces to the occupier of those premises a certificate stating that he has been so exempted, he shall be exempted from duties under arrangements in force for those residential premises.

6.—(1) Where any person working at any non-residential premises for which arrangements are in force under this order is employed in night work, the following provisions shall have effect—

- (a) if he is ordinarily employed for every week in night work, or is ordinarily employed in night work on not less than twenty nights in twenty-eight, he shall be exempted from all fire guard duties under this order except duties during his working hours under arrangements in force for the premises : provided that he may be required to perform duties outside his working hours under such arrangements on not more than one night in any week, being a night on which he is employed in night work, for a period beginning not earlier than 5 p.m. and ending when his work begins for the night or for a period beginning after his work has finished for the night and ending not later than 8 a.m. on the morning following that night, but the periods for which he is required to perform the said duties outside his working hours shall not in the aggregate exceed twelve hours in each period of four weeks ;
- (b) if he is employed in night work on a weekly shift system for three weeks in four, or for two weeks in three, or for three weeks in five, or is ordinarily employed in night work on not less than fifteen and not more than nineteen nights in twenty-eight, the maximum of forty-eight hours in a period of four weeks for which he may be required to perform fire guard duties outside his working hours under this order, shall be reduced by thirty-six hours ;

- (c) if he is employed in night work on a weekly shift system for one week in two, or for two weeks in five, or for one week in three, or is ordinarily employed in night work on not less than eight and not more than fourteen nights in twenty-eight, the said maximum shall be reduced by twenty-four hours ;
  - (d) if he is employed in night work on a weekly shift system for one week in four, or is ordinarily employed in night work on not less than five and not more than seven nights in twenty-eight, the said maximum shall be reduced by twelve hours ;
  - (e) if he is employed in night work on a system which involves his employment therein for periods consisting of at least four consecutive weeks, the said maximum shall, as respects any period of four weeks as defined by this order, be reduced by twelve hours for each week (if any) for which he is so employed during that period of four weeks.
- (2) Where any person employed in night work lives at any residential premises for which arrangements are in force under this order he shall not be exempted from any fire guard duties under those arrangements by virtue of this paragraph until he has produced to the occupier of those premises a certificate stating the necessary particulars.
- (3) For the purposes of this paragraph—
- (a) a person shall be deemed to be employed in night work on any night if he performs not less than four hours of work, exclusive of any interval for a meal or a rest, between the hours of 10 p.m. and 6 a.m. on that night ;
  - (b) a person shall not be deemed to be employed in night work for any week unless he is so employed on at least five nights in that week ;
  - (c) the expression “ week ” means the period between midnight on Sunday night and midnight on the succeeding Sunday night, except that, in a case where the system of work is based upon a seven-day period beginning and ending at times differing from those aforesaid, it means that period.

*Formal Provisions as to Certificates*

7. Any certificate issued under this Part of this Schedule shall—

- (a) if it is issued during the first four weeks of any period of twelve weeks, expire at the end of that period of twelve weeks ;
- (b) if it is issued during the last eight weeks of any period of twelve weeks, expire at the end of the next period of twelve weeks :

Provided that a certificate may from time to time be endorsed so as to cover a further period of twelve weeks, and any such endorsement shall, so far as practicable, be made not less than four weeks and not more than eight weeks before the date on which the certificate would otherwise expire, and, in the case of a certificate issued for the purposes of paragraph 6 of this Part of this Schedule, the particulars specified in the endorsement shall for the purpose of that paragraph be deemed to be substituted for the particulars specified in the certificate.

8. Any such certificate, and any endorsement of any such certificate shall be in the prescribed form and—

- (a) in the case of a person who works at business premises shall be signed by a person authorised by the appropriate authority for the premises or by a person of a class so authorised ;
- (b) in the case of a person who works at government premises shall be signed by a person authorised by or on behalf of the appropriate department for the premises, or by a person of a class so authorised :

Provided that—

- (i) a certificate for the purposes of paragraph 1 of this Part of this Schedule shall, where the premises are business premises for which a local authority is the appropriate authority, be signed by or on behalf of the Regional Commissioner ;



- (ii) a certificate for the purposes of paragraph 6 of this Part of this Schedule shall, where the premises are business premises, be signed by the occupier of the premises or by a person authorised by him with the approval of the appropriate authority for the premises.

#### PART IV

##### *Persons exempted from fire guard duties at residential premises only*

1. Where any person employed as a prison officer or as an officer, nurse or attendant in any mental institution, as hereinafter defined in this Schedule, who lives at any residential premises for which arrangements are in force under this order (not being premises at which he works) produces to the occupier of those residential premises a certificate signed by a person or by a person of a class authorised by or on behalf of the government department, local authority, county council, body or person having the control or management of the prison or institution, as the case may be, stating that he is so employed and is required to stand by at premises forming part of the prison or institution for periods outside his hours of actual duty amounting in the aggregate to not less than forty-eight hours in each period of four weeks, he shall, so long as he continues to stand by for such periods, be exempted from fire guard duties under arrangements in force for the residential premises.

2. Where any person who lives at any residential premises for which arrangements are in force under this order is employed at any premises forming part of a public utility undertaking or petroleum installation, being premises to which this order applies, and produces to the occupier of those residential premises a certificate signed by a person or by a person of a class authorised by or on behalf of the appropriate authority or the appropriate department for the premises stating that at the date of the certificate he was so employed in an essential capacity and is required to stand by elsewhere than where he lives for periods when he is not actually at work amounting in the aggregate to not less than forty-eight hours in each period of four weeks, he shall, so long as he continues to stand by for such periods, be exempted from fire guard duties under arrangements in force for the residential premises.

3. A duly qualified medical practitioner or certified midwife who lives at any residential premises for which arrangements are in force under this order, not being premises forming part of a hospital, sanatorium, clinic or similar institution, shall be exempted from duties under those arrangements.

#### PART V

##### *Power of Minister to exempt specified classes of persons*

The Minister may by directions make provision for the exemption from all duties under this order or from all such duties outside their working hours of such classes of persons as may be specified in the directions, and subject to such conditions as may be so specified.

#### PART VI

##### *Interpretation*

In this Schedule the following expressions have the meanings hereby respectively assigned to them, that is to say:—

“certified midwife” means a woman certified under the Midwives Acts, 1902 to 1936, or the Midwives (Scotland) Acts, 1915 and 1927, and a woman who is deemed to be a certified midwife by virtue of Regulation thirty-three of the Defence (General) Regulations, 1939, and also includes, for the purposes of paragraph 3 of Part IV of this Schedule, a woman whose name is entered on the register of pupils maintained by the Central Midwives Board or the Central Midwives Board for Scotland;

“mental institution” means, as respects England, the Broadmoor Criminal Lunatic Asylum, any institution within the meaning of the Mental Treatment Act, 1930, or any institution, certified house or approved home within the meaning of the Mental Deficiency Act, 1913, and, as respects Scotland, any criminal lunatic asylum or any institution or certified house within the meaning

of the Mental Deficiency and Lunacy (Scotland) Act, 1913, or any asylum within the meaning of the Lunacy (Scotland) Acts, 1857 to 1919 ;

“ working hours ” has the same meaning as in the Defence (Fireguard) Regulations, 1943, except that it includes any break for food or rest not exceeding one and a half hours in the course of a period of work. [615]

### THIRD SCHEDULE

*States referred to in Article 12 of order*

Argentina.	The Netherland.
Belgium.	Nicaragua.
Brazil.	Poland.
Cuba.	Salvador.
Greece.	Switzerland.
Guatemala.	Turkey.
Honduras.	The United States of America.
Iceland.	Venezuela.
Iran.	Yugoslavia. [616]

## THE FIRE GUARD (MEDICAL AND HARDSHIP EXEMPTIONS) ORDER, 1943

*S. R. & O., 1943, No. 1045*

*July 28, 1943*

In pursuance of the powers conferred upon me by Regulations two and three of the Defence (Fire Guard) Regulations, 1943, I hereby order as follows :—

1.—(1) Any person may apply to the Minister for exemption from all duties under the Fire Guard (Business and Government Premises) Order, 1943, and the Fire Guard (Local Authority Services) Order, 1943, or from some of those duties on the ground that he is medically unfit to perform them.

(2) Every such application shall be made by delivering notice thereof in the prescribed form or in a form substantially to the like effect to a local office of the Ministry of Labour and National Service and any such notice shall be accompanied by a certificate relating to the medical condition of the applicant and the extent to which he is unfit to perform the said duties, and the certificate shall be signed, not more than six weeks before the date of the application, by a duly qualified medical practitioner.

(3) On such an application the Minister may require the applicant to furnish, within such period as he may direct, such information relating to the application and to submit to such medical examination or examinations as he may direct, and if the applicant fails to comply with any such requirement, the Minister may dismiss the application.

(4) If the Minister is satisfied, having regard to the medical evidence, that the applicant is not fit to perform any of the said duties or is not fit to perform certain of those duties, he may grant subject to such conditions (if any) and for such period as may be specified in the certificate of exemption or without limit as to period—

(a) exemption from all duties under the Fire Guard (Business and Government Premises) Order, 1943, and the Fire Guard (Local Authority Services) Order, 1943 ; or

(b) exemption from such of the said duties as may be specified in the certificate. [617]

2.—(1) Any person registered by a local authority under the Fire Guard (Local Authority Services) Order, 1943, may apply to the Military Service (Hardship) Committee for the district which constitutes or comprises the whole or any part of the area of the local authority by whom he was registered for exemption from all duties under that order or from some of those duties on the ground that it would be an exceptional hardship for him to perform them, and the Committee may grant such application in accordance with this order subject to such conditions (if any) and for such period not exceeding twelve months as may be specified in the certificate of exemption.

(2) Every such application shall be made by delivering notice thereof in the prescribed form or in a form substantially to the like effect to a local office of the Ministry of Labour and National Service.

(3) Subject to the provisions, as applied by this order, of Part VII of the National Service (Armed Forces) (Miscellaneous) Regulations, 1939, as amended by any subsequent Regulations for the time being in force, any person authorised in that behalf by the said local authority shall be entitled to be heard before the Committee on the application.

(4) Any person who, on an application under this Article, is exempted from all duties under the Fire Guard (Local Authority Services) Order, 1943, shall be exempted from duties outside his working hours under arrangements in force for any premises under the Fire Guard (Business and Government Premises) Order, 1943. [618]

3.—(1) Any person who is required to perform duties under arrangements in force for any premises under the Fire Guard (Business and Government Premises) Order, 1943, may apply to the Military Service (Hardship) Committee for the district in which the premises are situated for exemption from the performance of such duties outside his working hours or for a reduction in the aggregate periods for which he may be required to perform such duties outside his working hours on the ground that it would be an exceptional hardship if he were required to perform them or (in the case of an application for a reduction) to perform them for those periods, and the Committee may grant such application in accordance with this order subject to such conditions (if any) and for such period not exceeding twelve months as may be specified in the certificate of exemption.

(2) Where, on an application made by a woman under this Article for exemption from such duties as aforesaid, the Committee is satisfied—

(a) that the applicant regularly works at non-residential premises to which the Fire Guard (Business and Government Premises) Order, 1943, applies for an average of more than forty hours a week (exclusive of breaks) and keeps house for herself and at least one other person who has attained the age of fourteen and habitually lives and sleeps where she lives and sleeps; or

(b) that she regularly works at such premises for an average of not less than twenty-five hours a week (exclusive of breaks) and keeps house for herself and at least two other such persons as aforesaid;

the Committee shall grant the application.

For the purposes of this paragraph a woman shall be deemed to keep house if she performs all or the greater part of the cooking, cleaning and other necessary household duties, but not otherwise.

(3) Every such application shall be made by delivering notice thereof in the prescribed form or in a form substantially to the like effect to a local office of the Ministry of Labour and National Service.

(4) Subject to the provisions, as applied by this order, of Part VII of the National Service (Armed Forces) (Miscellaneous) Regulations, 1939, as

amended by any subsequent Regulations for the time being in force, the following persons shall be entitled to be heard before the Committee on the application :—

- (a) in the case of business premises,—
  - (i) the occupier of the premises or any person authorised by him in that behalf,
  - ii) any person authorised in that behalf by the appropriate authority for the premises,
  - (iii) any person authorised in that behalf by the local authority for the area in which the premises are situated ;
- (b) in the case of government premises, any person authorised in that behalf by the appropriate department for the premises, and any person authorised in that behalf by the local authority for the area in which the premises are situated.

(5) Any person who, on an application under this Article, is exempted from the performance of all duties outside his working hours under arrangements in force for any premises under the Fire Guard (Business and Government Premises) Order, 1943, shall be exempted from duties under the Fire Guard (Local Authority Services) Order, 1943, except duties as a member of the street fire party for the street fire party area in which he lives. [619]

4. The provisions of Part VII of the National Service (Armed Forces) (Miscellaneous) Regulations, 1939, as amended by any subsequent Regulations for the time being in force, shall apply, in so far as they relate to the procedure of Military Service (Hardship) Committees, to the procedure of those Committees under this order with the following modifications, that is to say—

- (a) Regulation fifteen shall have effect as if there were inserted at the end thereof the following paragraph :—
 

“ (2) Such notice as aforesaid shall also be sent to any occupier, local authority or appropriate department who is entitled or whose representative is entitled to be heard before the Committee on the application ” ;
- (b) in Regulation eighteen the reference to the Minister shall be construed as a reference to any occupier, appropriate authority, local authority or appropriate department entitled to be heard by the Committee on the application ;
- (c) Regulation twenty-two shall have effect as if the words from “ but ” to the end of the Regulation were omitted. [620]

5.—(1) A Military Service (Hardship) Committee shall not entertain any application made under this order for exemption from any fire guard duties—

- (a) by a male person who works at any business or government premises which are notified in writing by the appropriate authority or, as the case may be, the appropriate department, to the Regional Commissioner to be industrial premises used for vital work ; or
- (b) by a woman who works at any business or government premises (other than residential premises) ;

if, in either case, the sole ground on which the application is made is exceptional hardship arising from the nature of his or her work or from the length of hours thereof, or from both, and shall not grant exemption under this order to any such male person or woman on the sole ground of such exceptional hardship as aforesaid.

(2) A Military Service (Hardship) Committee shall not entertain any application made under this order if the sole ground on which the application is made is the medical unfitness of the applicant, and shall not, in determining any application under this order, take into account the medical condition of the applicant. [621]

6.—(1) The chairman of a Military Service (Hardship) Committee acting alone may grant, subject to and in accordance with the provisions of this Article, any application made to the Committee under this order which the Committee could have granted, and may grant the application subject to such conditions (if any) and for such period not exceeding twelve months as he may specify in the certificate of exemption.

(2) The power of the chairman under this Article shall be exercised on the information furnished by the applicant in giving notice of his application and such further information as may be given in writing by the applicant, and without a hearing of the case, and accordingly paragraph (3) of Article 2, paragraph (4) of Article 3 and Article 4 of this order shall not apply thereto, and, if the chairman on considering any such application decides not to grant it under this Article, he shall refer it to the Committee.

(3) The chairman acting alone shall not grant any such application made by a woman where it appears to him that the sole ground thereof is exceptional hardship arising wholly from housekeeping responsibilities or from house-keeping responsibilities combined with the length of hours of her work :

Provided that this paragraph shall not apply where the application is made under Article 3 of this order and the chairman is satisfied that either the conditions specified in sub-paragraph (a) of paragraph (2) of the said Article 3 or the conditions specified in sub-paragraph (b) of the said paragraph (2) are fulfilled. [622]

7. Any exemption granted on an application under any of the foregoing provisions of this order may, on a further application made in accordance with those provisions, be extended for a further period, and any such exemption which ceases to have effect may, on a further application made in accordance with the said provisions, be renewed :

Provided that an exemption on the ground of exceptional hardship shall not be extended or renewed for a period exceeding twelve months. [623]

8.—(1) Where an exemption is granted under any of the foregoing provisions of this order, a certificate specifying the necessary particulars shall be issued and shall be signed by or on behalf of the Minister or, as the case may be, the chairman of the Military Service (Hardship) Committee, and the exemption shall not be effective—

(a) if and in so far as the exemption is from duties under arrangements in force for any premises under the Fire Guard (Business and Government Premises) Order, 1943, until the certificate has been produced to the occupier of the premises, if they are business premises, or the appropriate department for the premises, if they are government premises ; or

(b) if and in so far as the exemption is from duties under the Fire Guard (Local Authority Services) Order, 1943, until the certificate has been produced to the local authority concerned.

(2) Where any such exemption is extended or renewed, the certificate shall be endorsed accordingly or a new certificate shall be issued. [624]

9.—(1) Any person who has made an application in accordance with any of the foregoing provisions of this order for exemption from fire guard

duties may, pending the determination of the application, be exempted from the duties to which the application relates, as follows :—

- (a) if and in so far as the application relates to duties under arrangements in force for any premises under the Fire Guard (Business and Government Premises) Order, 1943, he may be exempted by the occupier of the premises, if they are business premises, or the appropriate department for the premises, if they are government premises, after consultation with the persons required under the said order to perform duties under the arrangements or their representatives,
- (b) if and in so far as the application relates to duties under the Fire Guard (Local Authority Services) Order, 1943, he may be exempted by the local authority concerned,

and such exemption shall not be granted unless the occupier or department (having regard to the views expressed at any such consultation as aforesaid) or, as the case may be, the local authority are of opinion that the application has been made in good faith.

(2) For the purposes of this Article, the persons working at non-residential premises to which the Fire Guard (Business and Government Premises) Order, 1943, applies shall—

- (a) in so far as they have trade union representatives or representatives appointed by an organisation holding a certificate of approval under the Civil Service (Approved Associations) Regulations, 1927, be entitled to be represented by those representatives ;
- (b) in so far as they are members of the Police Federation, be entitled to be represented by Branch Boards of that federation ;
- (c) in so far as they are members of the Auxiliary Police Association, be entitled to be represented by local committees of that association.

**[625]**

10. The Minister may, to such extent and subject to such restrictions as he thinks proper, delegate to a Regional Commissioner any functions exercisable by him under this order. **[626]**

11.—(1) In this order, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them, that is to say :—

“ appropriate authority ”, “ appropriate department ”, “ business premises ” and “ government premises ” have the same meanings as in the Fire Guard (Business and Government Premises) Order, 1943 ;

“ fire guard duties ”, “ residential premises ” and “ non-residential premises ” have the same meanings as in the Defence (Fire Guard) Regulations, 1943 ;

“ local authority ” means, as respects England, the Common Council of the City of London, the council of a metropolitan borough or the council of a county borough or county district, and, as respects Scotland, a county council or town council ;

“ Military Service (Hardship) Committee ” means a Committee appointed under Part II of the Schedule to the National Service (Armed Forces) Act, 1939 ;

“ the Minister ” means, as respects England, the Minister of Home Security, and, as respects Scotland, the Minister of Home Security or the Secretary of State ;

“ prescribed ” means prescribed by directions given by the Minister ;

“ working hours ” has the same meaning as in the Defence (Fire Guard) Regulations, 1943, except that it includes any break for food or rest not exceeding one and a half hours in the course of a period of work.

(2) In any provision of this order which applies to residential premises as well as to non-residential premises, the words "outside his working hours", wherever they occur, shall, in relation to the residential premises, be deemed to be omitted.

(3) Any person who is exempted under this order from duties under the Fire Guard (Local Authority Services) Order, 1943, and, at the time when the exemption is granted, is not enrolled under that order, shall, so long as the exemption remains in force, be deemed to be exempted from such enrolment.

(4) Any reference in this order to any of the provisions of any other order shall be construed as a reference to those provisions as amended by any subsequent order. [627]

12.—(1) The Civil Defence Duties (Exemption Tribunals) Order, 1942, is hereby revoked.

(2) Any notice, exemption, release, certificate, application, authority or thing delivered, granted, issued, made, given or done in the exercise of powers conferred by any provision of the said order or by Regulation five of the Defence (Palace of Westminster Fire Prevention) Regulations, 1941, or by proviso (a) or proviso (aa) to paragraph (1) of Article 4 of the Fire Prevention (Business Premises) (No. 2) Order, 1941, or by proviso (a) or proviso (b) to paragraph (1) of Article 4 of the Fire Prevention (Government Premises) Order, 1942, or by paragraph (3) or paragraph (4) of Article 4 of the Civil Defence Duties (Compulsory Enrolment) Order, 1942, or by paragraph (3), paragraph (4) or paragraph (5) of Article 3 of the Civil Defence Duties (Compulsory Enrolment) (City of London) (No. 2) Order, 1942, shall, if it is in force at the date when this order comes into operation, continue in force and be deemed to have been delivered, granted, issued, made, given or done in the exercise of powers conferred by the corresponding provision of this order :

Provided that—

- (a) the Minister may give directions that any person specified in the directions, or any person of a class or description so specified, being a person entitled at the date when this order comes into operation to an exemption from fire guard duties on the ground of medical unfitness or exceptional hardship which was granted for an indefinite period or for a period expiring after a date specified in the directions, shall be treated as if that exemption had been granted for a period expiring on the date so specified, and this order shall apply to him accordingly ;
- (b) any application made to a Committee for exemption from fire guard duties on the ground of medical unfitness which has not been determined before the date on which this order comes into operation shall be deemed to have been made to the Minister under Article 1 of this order, so however that where the Regional Commissioner has, before the said date, advised that the applicant should not be required to perform fire guard duties pending the determination of the application by the Committee, the applicant shall be exempted from fire guard duties pending the determination of the application by the Minister. [628]

13. This order may be cited as the Fire Guard (Medical and Hardship Exemptions) Order, 1943, and shall come into operation on the twentieth day of September, nineteen hundred and forty-three. [629]



# FOOD AND DRUGS

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## ORDERS, CIRCULARS AND MEMORANDA

### THE DEFENCE (SALE OF FOOD) REGULATIONS, 1943

*S. R. & O., 1943, No. 1553*

*October 28, 1943*

\* \* \* \* \*

His Majesty, in pursuance of the Emergency Powers (Defence) Acts, 1939 and 1940, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, that the following Regulations shall have effect :—

1.—(1) A person who gives with any food sold by him, or displays with any food exposed by him for sale, a label, whether attached to or printed on the wrapper or container or not, which falsely describes that food, or is otherwise calculated to mislead as to its nature, substance or quality or, in particular, as to its nutritional or dietary value, shall be guilty of an offence against this Regulation unless he proves that he did not know and could not with reasonable diligence have ascertained that the label was of such a character as aforesaid.

(2) A person who publishes, or is a party to the publication of, an advertisement (not being such a label so given or displayed by him as aforesaid) which falsely describes any food or is otherwise calculated to mislead as to its nature, substance or quality or, in particular, as to its nutritional or dietary value, shall be guilty of an offence against this Regulation, unless he proves that he did not know and could not with reasonable diligence have ascertained that the advertisement was of such a character as aforesaid.

(3) In any proceedings for an offence against this Regulation, the fact that the label or advertisement includes an accurate statement of the composition of the food shall not preclude the court from holding that the label or advertisement is of such a character as aforesaid.

(4) In any proceedings for an offence against this Regulation in relation to the publication of an advertisement, it shall be a defence for the defendant to prove that, being a person whose business it is to publish, or arrange for the publication of, advertisements, he received the advertisement for publication in the ordinary course of business.

(5) In any such proceedings as are specified in paragraph (4) of this Regulation against the manufacturers, producers or importers of the advertised food, it shall rest on the defendant to prove that he did not publish, and was not a party to the publication of, the advertisement.

(6) The provisions of the Food and Drugs Act, 1938, specified in Part I of the Schedule to these Regulations, which relate to the matters specified

in the said Part I, shall have effect for the purposes of this Regulation as if references therein to that Act, or to any Part thereof, were references to this Regulation.

(7) Where in any proceedings for a contravention of paragraph (1) or (2) of this Regulation the defendant, in pursuance of section eighty-four of the Food and Drugs Act, 1938, as applied by paragraph (6) of this Regulation, relies on a warranty in writing given to him by the person from whom he purchased any food, then if the warranty was false the person giving the warranty shall be guilty of an offence against this Regulation unless he proves that when he gave the warranty he had reasonable cause to believe that the statements or description contained therein were accurate.

(8) Section six of the Food and Drugs Act, 1938, shall, so far as it relates to food (as defined in these Regulations), not have effect during the continuance in force of this Regulation, but without prejudice to proceedings in respect of any contravention of the said section before this Regulation comes into operation.

(9) This Regulation shall come into operation on the first day of January, nineteen hundred and forty-four. [630]

2.—(1) The Minister of Food, if it appears to him expedient so to do for the efficient prosecution of the war or the maintenance of supplies or services essential to the life of the community, may by order provide—

- (a) for imposing requirements as to the labelling or marking of wrappers or containers enclosing or containing food of various kinds, and for restricting the making in advertisements of food of claims or suggestions of the presence in the food of vitamins or minerals ;
- (b) for prohibiting or restricting the addition of any substance to, and regulating generally the composition of, any food.

(2) An order under this Regulation may apply, with or without modifications, the provisions of any of the enactments specified in Part II of the Schedule to these Regulations. [631]

3.—(1) Any person empowered under the hand of the Minister of Food to act under this Regulation may, for the purpose of securing the enforcement of these Regulations or any order made thereunder, issue a warrant in writing to any officer named in the warrant authorising him to enter and carry out an inspection of any undertaking of the class or description specified therein ; and any officer so authorised may, on production of the warrant issued to him, enter and inspect any premises used or appropriated for the purposes of any undertaking to which the warrant relates and any articles found in the premises, and may take any such sample and carry out any such test as appears to him to be necessary for the enforcement of these Regulations or any order made thereunder.

(2) The powers of entry, inspection, sampling and testing conferred by paragraph (1) of this Regulation shall also be exercisable—

- (a) by any sampling officer within the meaning of section sixty-eight of the Food and Drugs Act, 1938, on production of some duly authenticated document showing his authority under that Act ;
- (b) for the purpose of securing the enforcement of any provision of an order under Regulation two of these Regulations relating to weight, measure or number, by an inspector of weights and measures appointed by a local authority for the purposes of the Weights and Measures Acts, 1878 to 1936, on production of some duly authenticated document showing his authority under those Acts,

in relation to any premises in the area for which the officer or inspector is appointed to act, being premises used or appropriated for the purpose of any undertaking by way of trade or business concerned in the production, treatment, keeping, storage, movement, transport, distribution, disposal, acquisition, use or consumption of food.

(3) Where any article held ready for retail sale is taken as a sample under this Regulation, or the wrapper or container of any article pre-packed for retail sale is broken open for the purposes of any test carried out under this Regulation and cannot be resealed without injury to the contents, the officer or inspector concerned shall, if required to do so by the retailer, purchase the article.

(4) Where any officer or inspector by whom a sample is taken under this Regulation considers that it should be analysed, he shall submit it to be analysed, if a sampling officer, to a public analyst, and in any other case to a public analyst or the Government Chemist.

Section seventy of the Food and Drugs Act, 1938 (which relates to the division of, and dealing with, samples purchased or taken under that Act), shall apply to samples submitted under this paragraph as if the references in that section to the public analyst included references to the Government Chemist, and subsection (4) of section eighty and section eighty-two of the said Act (which provide for the production at the hearing of proceedings under that Act of part of a sample and for empowering the court to cause an analysis thereof to be made) shall apply, with the necessary modifications, to samples submitted under this paragraph to a public analyst. [632]

4. Part V of the Defence (General) Regulations, 1939, shall apply for the purposes of these Regulations as if in the said Part V any reference to those Regulations included a reference to these Regulations :

Provided that an offence against any of these Regulations shall only be prosecuted summarily, and accordingly the provisions of the said Part V relating to proceedings on indictment shall not apply. [633]

5.—(1) In addition to the authorities by whom proceedings for offences against any of these Regulations may be instituted by virtue of the provisions of Part V of the Defence (General) Regulations, 1939, as applied by Regulation four of these Regulations, the following authorities may institute such proceedings in England and Northern Ireland :—

(a) the Minister of Food ;

(b) as respects proceedings in the area of a Food and Drugs authority as defined by section sixty-four of the Food and Drugs Act, 1938, that authority ;

(c) in so far as an order under Regulation two of these Regulations so provides, as respects an infringement of the order in the area of a local authority for the purposes of the Weights and Measures Acts, 1878 to 1936, that authority :

Provided that, except in such cases as the Minister of Food may by order provide, proceedings shall not be brought by any such Food and Drugs authority as aforesaid without the consent of the Minister.

(2) The expenses of any such Food and Drugs authority and of a local authority for the purposes of the Weights and Measures Acts, 1878 to 1936, in enforcing these Regulations shall be defrayed in like manner as their expenses in enforcing the Food and Drugs Act, 1938, and the said Weights and Measures Acts, 1878 to 1936, respectively. [634]

6. In these Regulations, the following expressions have the meanings hereby respectively assigned to them, that is to say :—

“advertisement” includes any notice, circular, label, wrapper or other document, and any public announcement made orally or by any means of producing or transmitting light or sound ;

“food” means any article used as food or drink for human consumption and includes any substance which is intended for use in the composition or preparation of food, any flavouring or condiment, and any colouring matter intended for use in food, and an article shall not be deemed not to be food by reason only that it is also capable of being used as a medicine ;

“public analyst” has the same meaning as in the Food and Drugs Act, 1938. [635]

7.—(1) The following provisions of this Regulation shall have effect for the application of these Regulations to Scotland.

(2) For the reference in Regulation six to the Food and Drugs Act, 1938, there shall be substituted a reference to the Food and Drugs (Adulteration) Act, 1928, references to section eighty-four of the first mentioned Act shall have effect as if that section extended to Scotland, and for a reference to any provision of the first mentioned Act appearing in the first column of the Table annexed hereto there shall be substituted a reference to the provision of the Act second above mentioned appearing opposite the first mentioned provision in the second column of the said Table.

The Act of 1938	TABLE	The Act of 1928
Section 6.		Section 30 (1) (so far as relating to the giving of a label with an article of food).
68		16
70		18
80 (4)		28 (4)
81 (1)		28 (3)
81 (3)		28 (2)
82		31

(3) Where an offence against Regulation one has been committed in respect of which proceedings might be taken under these Regulations against some person and the offence was due to an act or default of some other person, then, whether proceedings are or are not taken against the first mentioned person, that other person may be charged with and convicted of the offence, and shall be liable on conviction to the like punishment as might have been inflicted on the first mentioned person if he had been convicted of the offence.

(4) Any expense incurred under these Regulations by a local authority for the purposes of the Food and Drugs (Adulteration) Act, 1928, shall be defrayed in like manner as expenses incurred under that Act.

(5) The Schedule shall have effect as if the reference in Part I to section eighty-three of the Food and Drugs Act, 1938, were omitted and as if there were included in Part II a reference to paragraph (3) of this Regulation. [636]

8.—(1) The following provisions of this Regulation shall have effect for the application of these Regulations to Northern Ireland.

(2) For the references to section six, section seventy, sub-section (4) of section eighty and section eighty-two of the Food and Drugs Act, 1938, there shall be respectively substituted references to the corresponding provisions contained in sections twenty-seven, fourteen, twenty-one and twenty-two of the Sale of Food and Drugs Act, 1875, section twenty-one of the Sale of

Food and Drugs Act, 1899, and section two of the Administrative Provisions Act (Northern Ireland), 1928.

(3) Paragraph (6) of Regulation one and paragraph (2) of Regulation two shall have effect as if the enactments specified in the Schedule to these Regulations extended to Northern Ireland.

(4) In Regulation three—

(a) for the reference in paragraph (2) to a sampling officer there shall be substituted a reference to an officer, inspector or constable appointed for the purposes of section thirteen of the Sale of Food and Drugs Act, 1875, and for the reference in the said paragraph to an inspector of weights and measures appointed by a local authority there shall be substituted a reference to an inspector of weights and measures appointed under section two of the Weights and Measures Act (Northern Ireland), 1938 ;

(b) for the references in paragraph (4) to the Government Chemist there shall be substituted references to the Government Chemist for Northern Ireland.

(5) For sub-paragraphs (b) and (c) of paragraph (1) of Regulation five there shall be substituted the following sub-paragraphs :—

“(b) as respects proceedings in the area of a local authority entrusted with the execution of the Sale of Food and Drugs Acts (Northern Ireland), 1875 to 1939, that authority ;

(c) in so far as an order under Regulation two of these Regulations so provides, as respects an infringement of the order, the Ministry of Commerce ;”

and references in the proviso to the said paragraph (1) to a Food and Drugs authority shall be construed accordingly.

(6) For paragraph (2) of Regulation five there shall be substituted the following paragraph :—

“(2) The expenses of a local authority entrusted with the execution of the Sale of Food and Drugs Acts (Northern Ireland), 1875 to 1939, in enforcing these Regulations shall be defrayed in like manner as their expenses in executing the provisions of the said Acts.”

(7) The expression “public analyst” means a public analyst appointed under the Sale of Food and Drugs Acts (Northern Ireland), 1875 to 1939. [637]

9. These Regulations may be cited as the Defence (Sale of Food) Regulations, 1943. [638]

\* \* \* \* \*

## SCHEDULE

### PART I

*Provisions of 1 & 2 Geo. 6, c. 56 applicable for purposes of Regulation one*

Section eighty-one, subsections (1) and (3) (proof of facts stated in certificate of public analyst) ; section eighty-three (defence available to defendant where some other person is responsible for the commission of the offence charged, and punishment of that other person) ; section eighty-four (pleading of written warranty as a defence).

### PART II

*Enactments applicable for purposes of Regulation two*

The enactments specified in Part I of this Schedule ; subsection (1) of section twelve of the Sale of Food (Weights and Measures) Act, 1926 (inconsiderable variation of single articles to be disregarded) ; paragraphs (5) and (7) of Regulation one of these Regulations. [639]

## THE PUBLIC HEALTH (DRIED AND CONDENSED MILK) REGULATIONS, 1943

*S. R. & O.*, 1943, No. 896

*June 24, 1943*

103613.

Whereas by the Public Health (Dried Milk) Regulations, 1923 and 1927, the Minister of Health (hereinafter referred to as "the Minister") required certain particulars to be printed on the labels used in connection with the sale of or certain other dealings with dried milk ;

And whereas by the Public Health (Condensed Milk) Regulations, 1923 and 1927, the Minister made similar requirements regarding the labels used in connection with the sale of or certain other dealings with condensed milk ;

And whereas it is expedient to alter the said requirements in manner hereinafter appearing and the Minister is of the opinion that the above-recited regulations as altered by these regulations are necessary for preventing danger to health or otherwise for protecting purchasers :

Now therefore the Minister in exercise of the powers conferred on him by the Food and Drugs Act, 1938, and of every other power enabling him in that behalf hereby makes the following regulations that is to say :—

1. These regulations may be cited as the Public Health (Dried and Condensed Milk) Regulations, 1943, and shall come into operation on the first day of July, 1943. [640]

2.—(1) It shall be deemed a sufficient compliance with the provisions of the recited regulations if the labels which are thereby required to bear the expression "unfit for babies" bear instead the expression "not to be used for babies".

(2) Where the expression "not to be used for babies" is used the provisions of the recited regulations shall apply as if those words were substituted therein for the expression "unfit for babies". [641]

\* \* \* \* \*

## PROVISIONAL REGULATIONS UNDER THE FOOD AND DRUGS ACT, 1938

*P. R. & O.*, 1943

*May 21, 1943*

103620.

The Minister of Health hereby certifies under section 2 of the Rules Publication Act, 1893, that on account of urgency the following regulations should come into operation immediately, and in exercise of the powers conferred on him by section 20 of the Food and Drugs Act, 1938, and of all other powers enabling him in that behalf, hereby makes the following regulations to come into operation forthwith as provisional regulations :—

1.—(1) These regulations may be cited as the Milk and Dairies Regulations, 1943, and these regulations and the Milk and Dairies Order, 1926, and the Milk and Dairies Amendment Order, 1938, may be cited together as the Milk and Dairies Regulations, 1926 to 1943.

(2) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [642]

2. For article 21 of the Milk and Dairies Order, 1926, there shall be substituted the following article :—

21. Every cowkeeper or dairyman shall cause all vessels (including the lids of such vessels) and appliances used or intended to be used by him for containing, measuring or stirring milk, or for any other purpose for which they may be brought into contact with milk, to be kept at all times in a state of thorough cleanliness.

For this purpose—

- (i) every such vessel, lid and appliance (except a mechanical milker or similar appliance used in milking which is efficiently cleansed before it is brought into contact with milk) shall be thoroughly washed as soon as may be after use, and shall be cleansed and scalded with boiling water or steam before it is used again ;
- (ii) no oxidising or preservative agent other than such solutions of sodium hypochlorite as may from time to time be approved by the Minister of Agriculture and Fisheries shall be used in the cleansing of any such vessel, lid or appliance and where such solutions so approved as aforesaid are used, all trace thereof shall be removed before such vessel, lid or appliance is brought into contact with milk ;
- (iii) every such vessel, lid and appliance when not in use shall be stored in a clean place and shall be protected from dust and dirt ; and
- (iv) no such vessel or appliance shall be used for containing, measuring or applying any process or treatment to any article other than milk or milk products. [643]

\* \* \* \* \*

**Circular 2886**  
(England)

*Common Council of the City of London.*  
*Metropolitan Borough Councils.*  
*Borough Councils.*  
*Urban District Councils.*  
*Rural District Councils.*  
*Port Health Authorities*  
*(including Wales).*

MINISTRY OF HEALTH,  
WHITEHALL,  
LONDON, S.W.1.

17th November, 1943.

SIR,

## FOOD AND DRUGS ACT, 1938

### UN SOUND FOOD

1. I am directed by the Minister of Health to refer to Part II of Circular 2640 of May, 1942, and to say that he is informed by the Ministry of Food that they desire to make certain changes in the arrangements there referred to for dealing with food found to be unfit for human consumption. [644]

2. Appendix A to this Circular should now be regarded as substituted for the Appendix to Circular 2640. It will be observed that there has been some alteration in the minimum quantities of unsound food which should be reported to the salvage or other appropriate officer of the Ministry of Food and that certain articles have now been omitted. [645]

3. In the case of the articles of food set out in Appendix B, it is no longer desired that notification shall be given to the Salvage Officer or Food Executive



Officer. In these instances it has been arranged by the Ministry of Food that the vendor, on being informed that the food is unsound, will return the food to the Ministry of Food agents through trade channels. In each case the vendor will be given a receipt for food so returned, and this should, if necessary, afford evidence that it has been disposed of in accordance with these arrangements. [646]

4. If a scheme for the sterilisation of kitchen waste for or on behalf of a Local Authority is in operation, any unsound food which is not covered by the arrangements referred to in paragraphs 2 and 3 above but which is considered to be suitable for animal feeding, should, if possible, be dealt with under that scheme. Those Local Authorities who send material to a central sterilisation plant should ask the Authority responsible for the plant whether in the case of canned food the unopened can or only the contents should be sent. [647]

5. The Minister wishes to take this opportunity to express his appreciation of the assistance afforded by Local Authorities to the Ministry of Food Salvage Organisation. [648]

6. A copy of this Circular has been sent to the Medical Officer of Health. [649]

I am, Sir, etc.

\* \* \* \* \*

The Town Clerk,

or

The Clerk of the Council,

or

The Clerk to the Port Health Authority.

#### APPENDIX A

The minimum quantities of food, unfit for human consumption, which the Ministry of Food state will normally justify removal by their Department are set out below. When after enemy attack a Ministry of Food Salvage Depot has been opened in the district, smaller quantities of foods can be dealt with there and, except as provided in Appendix B below, can be aggregated with other foods.

Sugar	..	..	..	..	..	..	..	28 lbs.
Eggs, dried	..	..	..	..	..	..	..	1 barrel or case
Tea	..	..	..	..	..	..	..	28 lbs.
Dried fruits	..	..	..	..	..	..	..	5 cwt.
Rice, tapioca, sago	..	..	..	..	..	..	..	2 cwt.
Peas, beans, lentils	..	..	..	..	..	..	..	2 cwt.
Oats	..	..	..	..	..	..	..	2 cwt.
Flour	..	..	..	..	..	..	..	2 cwt. [650]

#### APPENDIX B

Articles of food unfit for human consumption to be returned by the vendor direct to the Ministry of Food agents through trade channels (see paragraph 3 above).

Butter and cheese—all amounts.

Lard, margarine and cooking fats—all amounts.

Bacon and ham—all amounts. [651]

## CASES

*Food and Drugs—Nature of substance or quality demanded—“Cordial”—Evidence—Evidence must show what an ordinary purchaser expects to receive.*

The appellants were charged with selling Orange Citric Flavoured Cordial which was not of the nature, substance or quality demanded by the purchaser and also with giving a label calculated to mislead as to its nature, substance or quality. Before placing this cordial on the market the appellants had had a sample analysed by a public analyst and he had come to the conclusion that it was properly described and could properly be issued to the public with the label in question. At the hearing, a public analyst stated that non-alcoholic cordials in his opinion should contain a substantial quantity of sugar. Other analysts gave evidence totally disagreeing with that view :—

*Held* : this evidence was quite insufficient for a conviction, since it was not evidence that an ordinary person asking for a cordial expects to receive or means to demand a liquid containing a substantial quantity of sugar.—*COLLINS ARDEN PRODUCTS, LTD. v. BARKING CORPN.*, [1943] 1 K. B. 419 ; [1943] 2 All E. R. 249 ; 112 L. J. (K. B.) 406 ; 169 L. T. 12 ; 107 J. P. 117 ; 59 T. L. R. 257 ; 41 L. G. R. 161, D. C. [652]

*Sale of Goods—False trade description—Sample purchased by officer of local authority—Procedure prescribed by Food and Drugs Act, 1938, not applied—Merchandise Marks Act, 1887 (c. 28), s. 2 (1) (d)—Food and Drugs Act, 1938 (c. 56), s. 70 (1).*

The appellant, an official of the local authority, purchased from a retail distributor a sample of the article of food called “Lem Lem,” a substitute for lemons, with a view to having it analysed. He laid an information against the respondent company, the manufacturers, charging them with an offence under the Merchandise Marks Act, 1887. The appellant failed to divide the sample into three parts as required by the Food and Drugs Act, 1938, s. 70 (1). The respondent contended that this section was of general application and applied equally to a prosecution for giving a false trade description under the Merchandise Marks Act, 1887, s. 2 (11) as to proceedings under the Food and Drugs Act, 1938 :—

*Held* : the procedure directed by the Food and Drugs Act, 1938, s. 70 (1), on the purchase of a sample of food with the view to its being analysed has no relation to prosecutions under the Merchandise Marks Act, 1887.—*EVANS v. CLINICAL PRODUCTS, LTD.*, [1943] 1 All E. R. 222 ; 168 L. T. 156 ; 107 J. P. 33, D. C. [653]

## GAS

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## ORDERS, CIRCULARS AND MEMORANDA

### THE GAS FUND (CONTRIBUTION) ORDER, 1943

*S. R. & O., 1943, No. 84*

*January 13, 1943*

The Minister of Fuel and Power in pursuance of the powers conferred upon him by section 7 of the Gas Regulation Act, 1920, as amended by the Gas Undertakings Act, 1934, hereby prescribes as follows :—

1. The rate of contribution to the Gas Fund for the year 1943 shall be :—

(a) sixpence for each five thousand therms in the form of gas sold during the year 1942 (excluding gas sold to other undertakers in bulk for distribution and gas supplied separately for industrial purposes only) ; and

(b) threepence for each five thousand therms in the form of gas supplied separately for industrial purposes only during the year 1942. [654]

2. Such contribution shall be paid on or before the 1st April, 1943, to the Minister of Fuel and Power at Heyhouses Lane, Lytham St. Annes, Lancashire, by all Gas Undertakers with respect to whom an Order under the Gas Regulation Act, 1920, shall have been made or to whom sub-section (3) of section 7 of that Act applies by virtue of any public general Act, Special Act or Special Order. [655]

3. Payment of the contribution shall be by cheque made payable to the Minister of Fuel and Power and crossed " Bank of England." [656]

4. This Order may be cited as the Gas Fund (Contribution) Order, 1943. [657]

\* \* \* \* \*

### THE GAS (CAPITAL AND BORROWING POWERS) RULES, 1943

*S. R. & O., 1943, No. 826*

*June 4, 1943*

The Minister of Fuel and Power (in these Rules referred to as " the Minister ") in pursuance of the powers conferred on him by Section 16 of the Gas Regulation Act, 1920, hereby makes the following rules :—

1. Every applicant for an Order shall cause an advertisement of the intended application to be published in the London or Edinburgh Gazette, as the case may require, and once in a local newspaper circulating within the limits in which the applicant is authorised to supply gas. [658]

2. Every such advertisement shall contain :—

- (1) the description and address of the applicant ;
- (2) a statement of the additional share capital or borrowing powers, or both, for which authority is sought under the proposed Order ;
- (3) a short statement of the modifications of the enactments applying to the applicant which it is desired shall be made ;
- (4) an intimation to the effect, and in the form as near as may be, of paragraph (1) of Rule 5 of these Rules. [659]

3. On or before the date on which publication of the advertisement is completed, the applicant shall deposit or send by registered post a copy of the advertisement at or to the office of every local authority having jurisdiction within the limits for the supply of gas by the applicant. [660]

4. The application for an Order shall be made in writing by the applicant to the Minister within seven days of the date on which publication of such advertisement is completed and the applicant shall, at the same time, pay the sum of £5 to and deposit with the Minister :—

- (1) a copy of the Gazette and of the newspaper containing the advertisement ;
- (2) a list of the local authorities with or to whom a copy of the advertisement has been deposited or sent by registered post in accordance with the last preceding Rule of these Rules, certified by a responsible officer of the applicant as containing the name of every local authority having jurisdiction within the limits for the supply of gas by the applicant ;
- (3) a statement of the existing share capital and borrowing powers showing the amounts authorised, raised and expended at the date of the application, and certified by a responsible officer of the applicant ;
- (4) a statement showing under separate heads the purposes for which the additional share capital and borrowing powers are required and the amount required for each purpose and certified by an engineer qualified in that behalf ;
- (5) a copy of the accounts of the undertaking of the applicant for the half-year or year next before the date of the application ;
- (6) if the applicant is a company incorporated under the provisions of the Companies Act, 1929, a copy of the Memorandum and Articles of Association, and of every registered special resolution, of the company ;
- (7) a list of every special Act of Parliament and Order having the force of an Act relating to any undertaking carried on by the applicant, certified by a responsible officer of the applicant. [661]

5.—(1) Any local or other public authority, company or person desiring to bring before the Minister any objection to the application may do so by registered letter addressed to the Minister and despatched on or before a date to be stated in the advertisement mentioned in Rule 1 of these Rules or, in a case in which no advertisement is required by reason of a direction given under Rule 6 of these Rules, to be specified in such direction, which date shall not be earlier than 21 days after the date on which publication of the advertisement will be completed, or, as the case may be, on which the direction is given. Any such objection shall state the specific grounds of objection and a copy of the objection shall be forwarded to the applicant, or his agents, at the same time as it is despatched to the Minister.

(2) No part of the month of August shall, unless the Minister otherwise directs, be included in calculating the above-mentioned period of 21 days.

(3) As soon as practicable after the period allowed for bringing objection before the Minister has expired, the applicant shall furnish the Minister with a reply to any objection which has been made and a copy of the reply to the objection shall at the same time be sent to the objector. [662]

6.—(1) Notwithstanding anything contained in any of the preceding Rules, the Minister may, if he is of opinion that it is desirable for securing the

public safety, the defence of the realm, the efficient prosecution of any war in which His Majesty may be engaged or for maintaining supplies and services essential to the life of the community, by direction, and to such extent and on such terms and subject to such conditions (if any) as may be specified in the direction, exempt any applicant or any class or description of applicants from compliance with all or any of the provisions of such Rules; and any such direction shall, if by reason thereof no advertisement is required, make provision for publication, in such manner as the Minister may think best adapted for informing persons affected, of notice of the application; and these Rules shall be read, construed and have effect as altered or modified to such extent as may be necessary.

(2) The Minister may rescind or vary any direction given by him under this Rule. [663]

7. The applicant shall furnish the Minister with such information and documents as he may require in connection with the application, including, if the applicant is a company, a certified copy of a resolution approving the application, passed by shareholders or stockholders qualified to vote at ordinary meetings of the company who were present (either in person or by proxy) at a general meeting and who held at least three-fourths of the paid-up capital of the company represented by the votes at such meeting, together with a certified copy of the notice convening the meeting. [664]

8. The Minister will, before making an Order, send a draft thereof to every local authority mentioned in the list deposited under paragraph (2) of Rule 4 of these Rules and every such local authority shall, within 14 days of receiving such draft, inform the Minister whether or not such authority consents to the making of the Order and shall, in the event of a refusal to consent, specify, at the same time, the grounds of refusal. A copy of such refusal and of the grounds thereof shall be forwarded to the applicant, or his agents, at the same time as it is sent to the Minister. [665]

9. If any objection has been duly brought before the Minister in pursuance of Rule 5 of these Rules and it appears to him that it is expedient that an inquiry should be held, he may direct that an inquiry be held as to the application. [666]

10. Any local authority refusing to consent to the making of an Order as mentioned in Rule 8 of these Rules may in writing request the Minister to cause an inquiry to be held, and the Minister, if he thinks fit, may, if such authority undertakes in writing to be represented at the inquiry, direct that an inquiry be held into the question whether or not the consent of such local authority is unreasonably withheld. [667]

11.—(1) Any inquiry held in pursuance of Rule 9 or 10 of these Rules shall be held in public or private, by such person, at such time and place and in such manner as the Minister may direct.

(2) The applicant and any local authority or other public authority, company or person who has duly brought an objection before the Minister in pursuance of Rule 5 of these Rules and, in a case in which the inquiry is held in pursuance of Rule 10 of these Rules, any local authority having jurisdiction within the limits for the supply of gas by the applicant, shall be entitled to be represented and heard at any such inquiry.

(3) The person by whom any such inquiry is held shall, on the conclusion thereof, send a report to the Minister as to the application or, as the case may be, whether or not the consent of such local authority is unreasonably withheld. [668]

12. The costs of any inquiry held in pursuance of Rule 9 or 10 of these Rules shall be paid to the Minister, on demand, by such of the parties to the inquiry and in such proportions (if any) as the Minister may direct. [669]

13.—(1) In these Rules and (unless the contrary intention appears) in every direction given under these Rules, unless the context otherwise requires, the several words and expressions to which meanings are assigned by the Gas Undertakings Acts, 1920 and 1929, shall have the same respective meanings.

(2) References in these Rules to the advertisement mentioned in Rule 1 of these Rules shall, where the context so admits, be construed as including references to any advertisement specified in a direction given under Rule 6 of these Rules.

(3) For the purposes of these Rules and (unless the contrary intention appears) of every direction given under these Rules the publication of the advertisement shall be deemed to be completed on the date of the issue of the Gazette or local newspaper (whichever is issued the later) in which the advertisement of the intended application was published, or as may be specified in any direction given by the Minister under the provisions of Rule 6 of these Rules. [670]

14. The Gas (Capital and Borrowing Powers) Rules, 1929, are hereby revoked. [671]

15.—(1) These Rules shall come into force on the first day of July, 1943, and may be cited as the Gas (Capital and Borrowing Powers) Rules, 1943.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament. [672]

\* \* \* \* \*

## THE GAS (BORDERING PREMISES) RULES, 1943

*S. R. & O., 1943, No. 827*

*June 4, 1943*

The Minister of Fuel and Power (in these Rules referred to as "the Minister") in pursuance of the powers conferred on him by Section 16 of the Gas Regulation Act, 1920, hereby makes the following rules:—

1. Every applicant for an Order shall cause an advertisement of the intended application to be published once in a local newspaper circulating within the limits in which the applicant is authorised to supply gas (which limits in these Rules are referred to as "the limits of supply") and within the area in which any premises proposed to be supplied with gas under the Order are situate (which area in these Rules is referred to as "the bordering area"). [673]

2. Every such advertisement shall contain:—

- (1) the description and address of the applicant;
- (2) particulars of any premises proposed to be supplied with gas and the route outside the limits of supply along which it is proposed to lay pipes in order to effect the supply (which route in these Rules is referred to as "the route");

- (3) a short statement of the modifications of the enactments applying to the applicant which it is desired shall be made ;
- (4) an intimation to the effect, and in the form as near as may be, of paragraph (1) of Rule 5 of these Rules. [674]

3. On or before the date on which publication of the advertisement is completed, the applicant shall deposit or send by registered post a copy of the advertisement with or to :—

- (a) the Minister of War Transport, in a trunk road case ;
- (b) every local authority within whose jurisdiction are situate any of the premises proposed to be supplied with gas and any part of the route ;
- (c) every undertaker authorised to supply gas within the bordering area ;
- (d) the owner and lessee of every railway, tramway or canal outside the limits of supply along or across which it is proposed to lay pipes or which it is proposed otherwise to affect or interfere with. [675]

4. The application for an Order shall be made in writing by the applicant to the Minister within seven days of the date on which publication of such advertisement is completed and the applicant shall, at the same time, deposit with the Minister :—

- (1) a copy of the newspaper containing the advertisement ;
- (2) a certificate by a responsible officer of the applicant that a copy of the advertisement has been deposited with or sent by registered post to the Minister of War Transport, in a trunk road case ;
- (3) a list of the local authorities and persons with or to whom a copy of the advertisement has been deposited or sent by registered post in accordance with the last preceding Rule of these Rules, certified by a responsible officer of the applicant as containing the name of every local authority and person with whom a copy of the advertisement is required to be deposited in accordance with such Rule ; such list shall show separately the name of every undertaker authorised to supply gas within the bordering area ;
- (4) a list of every special Act of Parliament and Order having the force of an Act relating to any undertaking carried on by the applicant, certified by a responsible officer of the applicant ;
- (5) a statement in writing, signed by the owner or occupier of each of the premises proposed to be supplied with gas declaring that such owner or occupier desires to obtain a supply of gas from the applicant ;
- (6) a certificate by a responsible officer of the applicant (supported by such evidence as the Minister may require) that none of the premises proposed to be supplied with gas are situate within a distance of twenty-five yards from any main of the undertakers within whose limits of supply such premises are situate. [676]

5.—(1) Any local or other public authority, company or person desiring to bring before the Minister any objection to the application may do so by registered letter addressed to the Minister and despatched on or before a date to be stated in the advertisement mentioned in Rule 1 of these Rules or, in a case in which no advertisement is required by reason of a direction given under Rule 6 of these Rules, to be specified in such direction, which date shall not be earlier than 14 days after the date on which publication of the advertisement will be completed, or, as the case may be, on which the direction is given. Any such objection shall state the specific grounds of objection and a copy of the objection shall be forwarded to the applicant, or his agents, at the same time as it is despatched to the Minister.



(2) No part of the month of August shall, unless the Minister otherwise directs, be included in calculating the above-mentioned period of 14 days.

(3) As soon as practicable after the period allowed for bringing objection before the Minister has expired, the applicant shall furnish the Minister with a reply to any objection which has been made and a copy of the reply to the objection shall at the same time be sent to the objector. [677]

6.—(1) Notwithstanding anything contained in any of the preceding Rules, the Minister may, if he is of opinion that it is desirable for securing the public safety, the defence of the realm, the efficient prosecution of any war in which His Majesty may be engaged or for maintaining supplies and services essential to the life of the community, by direction, and to such extent and on such terms and subject to such conditions (if any) as may be specified in the direction, exempt any applicant or any class or description of applicants from compliance with all or any of the provisions of such Rules; and any such direction shall, if by reason thereof no advertisement is required, make provision for publication, in such manner as the Minister may think best adapted for informing persons affected, of notice of the application; and these Rules shall be read, construed and have effect as altered or modified to such extent as may be necessary.

(2) The Minister may rescind or vary any direction given by him under this Rule. [678]

7. The applicant shall furnish the Minister with such information and documents as he may require in connection with the application, including such Ordnance or other Maps or plans as the Minister may specify. [679]

8. The Minister will, before making an Order, send a draft thereof to every local authority and undertaker mentioned in the list deposited under paragraph (3) of Rule 4 of these Rules and every such local authority and undertaker shall, within 14 days of receiving such draft, inform the Minister whether or not such authority or undertaker consents to the making of the Order and shall, in the event of a refusal to consent, specify, at the same time, the grounds of refusal. A copy of such refusal and of the grounds thereof shall be forwarded to the applicant, or his agents, at the same time as it is sent to the Minister. [680]

9. Any local authority or undertaker refusing to consent to the making of an Order as mentioned in Rule 8 of these Rules may in writing request the Minister to cause an inquiry to be held, and the Minister, if he thinks fit, may, if such authority or undertaker undertakes in writing to be represented at the inquiry, direct that an inquiry be held into the question whether or not the consent of such local authority or undertaker is unreasonably withheld. [681]

10.—(1) Any inquiry held in pursuance of these Rules shall be held in public or private, by such person, at such time and place and in such manner as the Minister may direct.

(2) The applicant and any local authority or other public authority, company or person who has duly brought an objection before the Minister in pursuance of Rule 5 of these Rules and any local authority or undertaker mentioned in Rule 3 of these Rules shall be entitled to be represented and heard at any such inquiry.

(3) The person by whom any such inquiry is held shall, on the conclusion thereof, send a report to the Minister setting out his opinion as to whether or not the consent of such local authority or undertaker is unreasonably withheld. [682]

11. The costs of any inquiry held in pursuance of these Rules shall be paid to the Minister, on demand, by such of the parties to the inquiry and in such proportions (if any) as the Minister may direct. [683]

12.—(1) In these Rules and (unless the contrary intention appears) in every direction given under these Rules, unless the context otherwise requires, the several words and expressions to which meanings are assigned by the Gas Undertakings Acts, 1920 and 1929, shall have the same respective meanings and the expression "trunk road case" means a case in which any part of the route forms part of a trunk road for which the Minister of War Transport is the highway authority under and by virtue of the provisions of the Trunk Roads Act, 1936.

(2) Reference in these Rules to the advertisement mentioned in Rule 1 of these Rules shall, where the context so admits, be construed as including references to any advertisement specified in a direction given under Rule 6 of these Rules.

(3) For the purposes of these Rules and (unless the contrary intention appears) of every direction given under these Rules the publication of the advertisement shall be deemed to be completed on the date of the issue of the local newspaper in which the advertisement of the intended application was published, or as may be specified in any direction given by the Minister under the provisions of Rule 6 of these Rules. [684]

13. The Gas (Bordering Premises) Rules, 1929, are hereby revoked. [685]

14.—(1) These Rules shall come into force on the first day of July, 1943, and may be cited as the Gas (Bordering Premises) Rules, 1943.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament. [686]

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## THE GAS UNDERTAKINGS (ALTERATION OF DECLARED CALORIFIC VALUE) ORDER, 1943

*S. R. & O., 1943, No. 1720*

*December 13, 1943*

The Minister of Fuel and Power in pursuance of Regulation 56 of the Defence (General) Regulations, 1939, hereby orders as follows :—

1. Any obligation imposed on any gas undertaking, being a public utility undertaking, in any Order made in pursuance of section 1 of the Gas Regulation Act, 1920, or of section 6 of the Gas Undertakings Act, 1929, or in any special Order made under the Gas Undertakings Acts, 1920 to 1934, or in any local Act to give notice by advertisement in the London or Edinburgh Gazette, as the case may be, of its intention to supply gas of an altered declared calorific value as from a date specified in the notice, being not less than the period mentioned in such Order or Act, is hereby relaxed to the extent that notice of such intention shall be given in the London or Edinburgh Gazette, as the case may be, at any time before the date on which the undertaking will supply gas of such altered value. [687]

2. Any obligation imposed as mentioned in the preceding Article of this Order to send to every consumer of gas supplied by the undertaking a copy

of such notice as aforesaid is hereby relaxed provided that a copy thereof is published in a local newspaper circulating within the limits for the supply of gas by the undertaking on the date upon which the notice is advertised in the London or Edinburgh Gazette, as the case may be, or as soon thereafter as is reasonably practicable. [688]

3. This Order may be cited as the Gas Undertakings (Alteration of Declared Calorific Value) Order, 1943. [689]

\* \* \* \* \*

### EXPLANATORY NOTE

1. Under local Acts or Orders gas undertakings which intend to alter the declared calorific value of their gas are required to give a period of notice, usually three months, by advertisement in the London or Edinburgh Gazette. Article 1 allows these undertakings to publish the notice at any time before the date on which they will supply gas of such altered value.

2. There is a further obligation on these undertakings to send a copy of the notice to every consumer to whom they supply gas. Article 2 relaxes this obligation provided a copy of the notice is published in a local newspaper on the date on which it appears in the Gazette or as soon thereafter as is reasonably practicable. [690]

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## HARBOURS, DOCKS AND WHARVES

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### ORDERS, CIRCULARS AND MEMORANDA

#### THE PUBLIC UTILITY UNDERTAKINGS (CONTROL OF WRECK, ETC.) ORDER, 1943

*S. R. & O., 1943, No. 223*

*February 12, 1943*

The Minister of War Transport in exercise of the powers conferred upon him by Regulation 56 of the Defence (General) Regulations, 1939 (having been duly designated by the Treasury as a competent authority for the purpose in relation to lighthouse undertakings), and of all other powers enabling him in that behalf, hereby makes the following Order :—

1. The obligations and limitations imposed, with respect to any dock, harbour, lighthouse, canal or inland navigation undertaking, by, or by virtue of any Act or other instrument determining the functions of the undertakers, in relation to vessels and aircraft sunk, stranded or abandoned, or to any property recovered therefrom or to any other wreck or obstruction or danger to navigation or to the recovery from any person of all or any of the expenses incurred by the undertakers in dealing therewith shall be relaxed to the extent specified in the next following Article of this Order. [691]

2. Every such obligation or limitation shall cease to have effect, if, and in so far as, the undertakers are thereby required to publish or to give notice of the exercise or intended exercise of any of their rights or powers or to obtain the consent thereto of any other person.

Provided that nothing in this Article shall be taken to apply to any obligation or limitation imposed by the proviso to Section 530 of the Merchant Shipping Act, 1894. [692]

3. The provisions of this Order shall apply in relation to any part of a vessel or aircraft and to anything being or forming part of the machinery, tackle, equipment, cargo, stores or ballast of a vessel or aircraft as they apply in relation to vessels and aircraft. [693]

4. The Dock and Harbour Undertakings (Control of Wrecks and Other Obstructions) Order, 1941, is hereby revoked. [694]

5. This Order shall come into force on the twenty-second day of February, 1943, and may be cited as the Public Utility Undertakings (Control of Wreck, etc.) Order, 1943. [695]

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## THE DARTMOUTH HARBOUR COMMISSIONERS (TEMPORARY PROVISIONS) ORDER, 1943

*S. R. & O., 1943, No. 581*

*April 20, 1943*

\* \* \* \*

Whereas by the Dartmouth Harbour Commissioners (Temporary Provisions) Order, 1940, made under section two of the Chartered and Other Bodies (Temporary Provisions) Act, 1939, provision was made for postponing the election and extending the term of office of the embankment member and the harbour members of the Dartmouth Harbour Commissioners, until the year nineteen hundred and forty-three and for incidental and consequential matters :

And whereas application has been made on behalf of the Commissioners praying that His Majesty may be graciously pleased to make a further Order in Council with respect to them under the said section :

Now, therefore, His Majesty, in pursuance of the powers conferred on Him by the said section two and of all other powers enabling Him in that behalf is pleased, by and with the consent of His Privy Council to order, and it is hereby ordered as follows :—

1. The following provisions shall have effect as respects the embankment member and the harbour members of the Dartmouth Harbour Commissioners as reconstituted by the Dartmouth Harbour Act, 1922—

- (a) the triennial election of the said members required to be held in the year nineteen hundred and forty-three by section eight of the said Act shall not be held ;
- (b) the members due to retire at the end of the month of May in the year nineteen hundred and forty-three shall continue in office as if they had been duly re-elected under the said section eight in the said year ;
- (c) the registers of electors required to be prepared and kept under sections twelve and thirteen of the said Act shall cease to be prepared and kept until the first day of January, nineteen hundred and forty-six ;

- (d) sections fifteen, sixteen and seventeen of the said Act shall not have effect in so far as they require anything to be done for the purpose of or in connection with the triennial election of the said members in the year nineteen hundred and forty-three ;
- (e) any vacancy among the said members which occurs before the triennial election in the year nineteen hundred and forty-six and, but for this Order, would be required to be filled in the manner provided by paragraph (3) of section twenty-three of the said Act shall, instead of being so filled, be filled—
  - (i) in the case of a vacancy in the office of the embankment member, by the co-option by the harbour members of a person qualified to be an embankment member ; and
  - (ii) in the case of a vacancy in the office of a harbour member, by the co-option by the other harbour member and the embankment member of a person qualified to be a harbour member.

[696]

2.—(1) This Order may be cited as the Dartmouth Harbour Commissioners (Temporary Provisions) Order, 1943.

(2) This Order shall have effect as from the first day of January, nineteen hundred and forty-three.

(3) The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

(4) The Dartmouth Harbour Commissioners (Temporary Provisions) Order, 1940, is hereby revoked as from the first day of June, nineteen hundred and forty-three. [697]

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## THE MERSEY DOCKS AND HARBOUR BOARD (TEMPORARY PROVISIONS) ORDER, 1943

*S. R. & O., 1943, No. 1089*

*July 22, 1943*

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Whereas by the Mersey Docks and Harbour Board (Temporary Provisions Order, 1940, as amended by the Mersey Docks and Harbour Board (Temporary Provisions) Order, 1942, provision was made under section two of the Chartered and Other Bodies (Temporary Provisions) Act, 1939, with respect to the Elective Members of the Mersey Docks and Harbour Board :

And whereas application has been made on behalf of the said Board praying that His Majesty may be graciously pleased to make further provision under the said section two with respect to the said Members :

Now, therefore, His Majesty, in exercise of the powers conferred on Him by the said section two and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered as follows :—

1. The Mersey Docks and Harbour Board (Temporary Provisions) Order, 1940, as amended by the Mersey Docks and Harbour Board (Temporary Provisions) Order, 1942, shall have effect with the substitution for references to the year nineteen hundred and forty-four of references to the year nineteen

hundred and forty-five and for the reference to the year nineteen hundred and forty-three of a reference to the year nineteen hundred and forty-four. [698]

2.—(1) No election of Audit Commissioners shall be held under section three hundred and fourteen of the Mersey Dock Acts Consolidation Act, 1858, in the year nineteen hundred and forty-three, and accordingly the term of office of the Audit Commissioners holding office at the date of this Order shall extend until their successors are elected on some day in the month of August, nineteen hundred and forty-six.

(2) Nothing in this Article shall affect the operation of paragraph (3) of Article 2 of the Mersey Docks and Harbour Board (Temporary Provisions) Order, 1940. [699]

3. This Order may be cited as the Mersey Docks and Harbour Board (Temporary Provisions) Order, 1943. [700]

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## HIGHWAYS

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## STATUTES

### THE RESTRICTION OF RIBBON DEVELOPMENT (TEMPORARY DEVELOPMENT) ACT, 1943

(6 & 7 Geo. 6, c. 34)

#### PRELIMINARY NOTE

The Restriction of Ribbon Development Act, 1935 (28 Statutes 79) (hereinafter referred to as the principal Act) made a fundamental alteration in the law relating to highways. The frontager's common law right of access to a highway at any point was abolished on all classified roads, and no new means of access might be made without the consent of the highway authority. Restrictions were also imposed by the principal Act on building within 220 feet from the middle of all roads which were classified on May 17, 1935, or constructing an access to such roads. Other roads might become classified or come under the terms of the Act by resolution of a highway authority and the approval of the Minister of Transport.

The Restriction of Ribbon Development (Temporary Development) Act, 1943, has been passed for the purpose of authorising the making of arrangements, during the present war, enabling development expedient in the public interest to be carried out and maintained, notwithstanding the fact that consent to permanent develop-ment has been refused under the principal Act. It also regularises temporary

arrangements made by highway authorities prior to the present Act for the purposes of the principal Act.

Since the outbreak of war in 1939, highway authorities have been faced with considerable difficulties. They have had no power to grant leave for development within 220 feet from the middle of a classified road on condition that any building so erected or access made shall be demolished at the end of the war. At the same time development in many cases has been vital to war production. The authorities have frequently had to decide either to refuse the application to develop and thereby impede the war effort, or to allow the development, which will be a potential cause of obstruction on the road, perhaps for a generation to come, or to attempt, by granting an *ultra vires* temporary consent, to limit the concession to develop made by them. In many cases where consent has been refused, the developer has, nevertheless, proceeded with his work.

The new Act, in effect, allows a temporary consent to development. S. 1 (4) covers past cases, where highway authorities have endeavoured to give a temporary consent, by providing that such consent shall be regarded as having been given under the new Act, and, consequently, that the right of demolition will arise at the end of the war. In future cases, the authority can give temporary consent while retaining their right of action under s. 11 of the principal Act, which, however, again, they may not exercise until the end of the war.

In order to ensure that highway authorities will, after the end of the war, take proceedings to demolish, within a reasonable time, buildings which contravene the provisions of the principal Act, power is given to the Minister of War Transport, to direct the authorities to exercise their powers under s. 11 and to enforce the direction by mandamus.

Under s. 5 of the Town and Country Planning (Interim Development) Act, 1943, interim development authorities have power to remove undesirable buildings for which interim development permission has not been given. S. 4 (1) of the present Act, however, is intended to deal with cases where buildings have already been put up under temporary consents which are of doubtful validity (391 H. of C. Official Report 397).

The proviso to this section makes it clear that, although the temporary consent is to be regarded as having been given under the present Act, such consent is to remain subject to any other conditions imposed by the authority. Accordingly, while the authority may not take any steps, under s. 11 of the principal Act, with regard to removal of the buildings erected, it can proceed under s. 11 to enforce the other conditions specified in the consent, e.g. with regard to the type of building to be erected, the nature of the access thereto or that an adequate parking place should be provided in the case of a restaurant or café.

S. 2 of the present Act amends s. 11 of the principal Act (28 Statutes 90). Under that section, in addition to or in place of proceedings for an offence under s. 1 or s. 2 of the Act, the highway authority may give notice of intention to demolish, etc.; the person on whom such notice is served may within 28 days appeal to a court of summary jurisdiction, from whose order an appeal lies at quarter sessions. S. 2 of the present Act defines the order of the court of summary jurisdiction as "an order determining whether the building, excavation, means of access, or works were erected, made, constructed, or laid out in contravention of such restrictions as aforesaid." The amendment clarifies a point which has never been judicially decided, viz. that the power of the court of summary jurisdiction is limited to deciding that an infringement of the restriction has taken place. It has no power to decide what action, such as demolition, is to be taken, as a result of the infringement. Otherwise local magistrates could override all the planning authorities. The applicant and the highway authority retain their right of appeal to quarter sessions against the order of the inferior court. [701]

*An Act to authorise the making of arrangements during the present war period for enabling development which is expedient in the public interest to be carried out and maintained for the time being notwithstanding the refusal of consent under the Restriction of Ribbon Development Act, 1935, to permanent development; to regulate the effect of temporary arrangements already made for the purposes of that Act during the said period; and to amend section eleven of that Act. [702]*

[5th August, 1943.]



**1. Postponement of enforcement of restrictions under 25 & 26 Geo. 5, c. 47 in certain cases.**—(1) Where an application made to a highway authority for any consent which they have power to give under section one or section two of the Restriction of Ribbon Development Act, 1935 (hereinafter referred to as “the principal Act”) is refused by that authority at any time during the present war period, but it appears to that authority to be inexpedient in the public interest to prevent the building, excavation, means of access or works in respect of which the application was made from being erected, made, constructed, formed or laid out and maintained during the remainder of that period, they may serve on the person by whom the application was made a notice stating that if, notwithstanding the refusal of the application, the building or excavation is erected or made, or the means of access or works constructed, formed or laid out, in contravention of restrictions in force under the said section one or the said section two, no action will be taken under section eleven of the principal Act in respect of the contravention until after the expiration of that period. [703]

(2) If, at any time during the present war period, it appears to a highway authority that any building or excavation has been erected or made, or any means of access or works constructed, formed or laid out, in contravention of such restrictions as aforesaid, but that it is inexpedient in the public interest to prevent the building, excavation, means of access or works from being maintained during the remainder of that period, they may serve on the person by whom the contravention was committed a notice specifying the contravention, and stating that no action will be taken under the said section eleven in respect thereof until after the expiration of that period. [704]

(3) Where a notice is served under either of the foregoing subsections with respect to any building, excavation, means of access, or works—

- (a) no criminal proceedings shall, whether before or after the expiration of the present war period, be taken under the said section eleven in respect of the erection, making, construction, formation or laying out of the building, excavation, means of access or works ; and
- (b) the highway authority shall not, in the exercise of their powers under that section demolish the building, fill up the excavation, close up the means of access or remove the works, as the case may be, until after the expiration of that period. [705]

(4) If upon an application made to a highway authority for any such consent as is mentioned in subsection (1) of this section the highway authority, at any time since the third day of September, nineteen hundred and thirty-nine and before the commencement of this Act, have purported to give any consent which they have power to give under the said section one or section two of the principal Act conditionally upon the subsequent removal of any building, excavation, means of access, or works, erected, made, formed, laid out or constructed in accordance therewith, or have otherwise entered into any agreement or undertaking for postponing the exercise of their powers under the said section eleven of the principal Act or otherwise for securing the removal or closing up of the building, excavation, means of access, or works to which the application related, the highway authority shall not be deemed to have given their consent under the said sections one or two but the provisions of the last foregoing subsection shall apply in relation to the building, excavation, means of access, or works in like manner as if a notice under subsection (1) or subsection (2) of this section had been served by that authority with respect to the building, excavation, means of access, or works in respect of which the application was made :

Provided that where any such consent as aforesaid was given subject to conditions other than conditions with respect to the subsequent removal of the building, excavation, means of access or works, those conditions may be enforced under the said section eleven notwithstanding anything in the foregoing provisions of this subsection. [706]

(5) If, after the expiration of the present war period, the Minister is satisfied that there has been unreasonable delay in the exercise by any highway authority of their powers under the said section eleven in relation to any building, excavation, means of access or works in respect of which a notice has been served under subsection (1) or subsection (2) of this section, or to which the provisions of subsection (3) of this section apply as if such a notice had been served, and that the exercise of those powers is required in the interests of the amenities of the locality or of well planned development, he may give directions requiring them to exercise those powers, and any such directions may be enforced by mandamus. [707]

(6) In this section, references to a highway authority shall, in relation to trunk roads, be construed as references to the authority by whom functions are exercisable under section four of the Trunk Roads Act, 1936; the expression "the present war period" means the period beginning with the third day of September nineteen hundred and thirty-nine and ending with such date as His Majesty may by Order in Council appoint; and other expressions have the same meaning as in the principal Act as amended by any subsequent enactment. [708]

Under s. 1 of the principal Act (28 Statutes 81), which applies to roads regarding which a standard width has been adopted, and s. 2 (*ibid.* 82), which applies to classified roads, it is forbidden to construct means of access, or to erect buildings within a certain distance of the road, without the consent of the highway authority. The present section enables the highway authority to give temporary consent for the duration of the war either before the building has been erected (sub-s. (1)) or afterwards (sub-s. (2)), if the building, etc., is in the public interest. In such event the provisions of sub-s. (3) apply, suspending s. 11 (1) of the principal Act (28 Statutes 90). Under this section, the highway authority might, under the conditions therein set out, and whether proceedings have been taken in respect of an infringement of the principal Act or not, proceed to demolish the offending building or otherwise reinstate the land in the condition in which it was before the infringement.

"Present war period" is defined by sub-s. (6), as the period beginning with September 3, 1939, and ending with such date as may be appointed by Order in Council.

Since the outbreak of war, in order not to impede war production, highway authorities have in some cases given authority to ribbon development on a temporary basis. There is no provision for such temporary consents in the principal Act, and these accordingly appear to have been *ultra vires*. Sub-s. (4) gives legal recognition to such consents made prior to the present Act.

Sub-s. (5) fills a possible gap. The Ministry of Town and Country Planning will have power to remove undesirable buildings erected in contravention of planning schemes made after this Act. This section will enable "the Minister" to deal with cases where the highway authority does not within a reasonable time take action with regard to buildings erected prior to the Act under temporary consent of the authority. "The Minister" means the Minister of War Transport. By s. 24 of the principal Act (28 Statutes 98) the Minister means the Minister of Transport, but by Art. 2 of the Ministers of the Crown (Minister of War Transport) Order, 1941 (S. R. & O., 1941, No. 654), the functions of the Minister of Transport were transferred to the Minister of War Transport.

"Highway authority" is not defined, but is the authority actually responsible for the repair of the highway, see 9 Statutes 13 *et seq.* In the case, however, of trunk roads the highway authority under this section, as well as under ss. 1 and 2 of the principal Act, is the county council or where the functions were immediately before the road became a trunk road, exercisable by some other council, that council (see sub-s. (6) and s. 4 of the Trunk Roads Act, 1936 (29 Statutes 139)).

**2. Amendment of section 11 of principal Act.**—In the proviso to subsection (1) of section eleven of the principal Act (which relates to the procedure to be followed for the enforcement of restrictions without criminal proceedings) for the words from "if that person" to "the appellant" there shall be substituted the words "at any time before the expiration of that period that person may apply to a court of summary jurisdiction for the petty sessional division in which the building, excavation, means of access, or works are situated, for an order determining whether the building, excava-

tion, means of access, or works were erected, made, constructed, or laid out in contravention of such restrictions as aforesaid, and the applicant". [709]

The amendment of s. 11 (1) of the Restriction of Ribbon Development Act, 1935 (28 Statutes 90), has been made because of a doubt, which arose in departmental discussions regarding the meaning of the subsection. The doubt was as to whether the power of the court of summary jurisdiction, on an appeal to it thereunder, was to determine only whether there had been a violation of the Restriction of Ribbon Development Act, 1935, *ante*, or to determine also what executive action should be taken and whether demolition should be proceeded with or not. This amendment makes it clear that the application to the court is merely for an order determining whether the restrictions have been contravened and that the executive action remains with the highway authority.

**3. Short title and citation.**—This Act may be cited as the Restriction of Ribbon Development (Temporary Development) Act, 1943, and this Act and the principal Act may be cited together as the Restriction of Ribbon Development Acts, 1935 and 1943. [710]

## ORDERS, CIRCULARS AND MEMORANDA

### ORDER IN COUNCIL AMENDING REGULATION 70 OF THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1943, No. 71*

*January 13, 1943*

\* \* \* \* \*

His Majesty, in pursuance of the Emergency Powers (Defence) Acts, 1939 and 1940, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, that at the end of paragraph (1) of Regulation seventy of the Defence (General) Regulations, 1939, there shall be added the following sub-paragraph:—

“(c) for removing or modifying, or for limiting the application of, any prohibitions or restrictions imposed by or under any Act”. [711]

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### ORDER REVOKING THE ORDER IN COUNCIL OF JANUARY 13, 1943, AMENDING REGULATION 70 OF THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1943, No. 375*

*March 11, 1943*

The Order in Council dated the thirteenth day of January, nineteen hundred and forty-three, made under the Emergency Powers (Defence) Acts, 1939 and 1940, amending Regulation seventy of the Defence (General) Regulations, 1939, is hereby revoked. [712]

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# ORDERS IN COUNCIL AMENDING REGULATION 16 OF THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1943, No. 741*

*May 20, 1943*

\* \* \* \* \*

After paragraph (1) of Regulation sixteen of the Defence (General) Regulations, 1939, there shall be inserted the following paragraph—

“(1A) A Secretary of State or the Admiralty, if he considers or they consider it necessary that all or any of the land comprised in a highway should be reserved for the purposes of the armed forces of the Crown, may by order provide for the total or partial stopping up of that highway.”  
[713]

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## ORDER AMENDING REGULATION 70 OF THE DEFENCE (GENERAL) REGULATIONS, 1939, AND ADDING REGULATION 70A TO THOSE REGULATIONS

*S. R. & O., 1943, No. 915*

*June 30, 1943*

1.—(1) At the end of paragraph (1) of Regulation seventy of the Defence (General) Regulations, 1939 (which empowers the Minister of War Transport to provide by order for the regulation of traffic on highways), there shall be added the following sub-paragraphs :—

“(c) for suspending or relaxing any prohibition or restriction imposed with respect to the use of vehicles on any street or road by regulations made under section ten of the London Traffic Act, 1924, or by an order made under section seven of the Roads Act, 1920, or under section forty-six of the Road Traffic Act, 1930, as originally enacted or as amended by section twenty-nine of the Road and Rail Traffic Act, 1933 ;

(d) for suspending the use as a parking place of any part of a street or road authorised to be so used by any such regulations as aforesaid or by an order made under section sixty-eight of the Public Health Act, 1925.”

(2) After paragraph (1B) of the said Regulation seventy, there shall be added the following paragraph :—

“(1c) This Regulation shall, in its application to Scotland, have effect subject to the following modifications :—

(a) after the words ‘Road and Rail Traffic Act, 1933’ there shall be inserted the words ‘or by any byelaw made under section three hundred and eighty-five of the Burgh Police (Scotland) Act, 1892, or any provision corresponding to that section contained in any local Act’ ;

(b) for the reference to section sixty-eight of the Public Health Act, 1925, there shall be substituted a reference to section one hundred and twenty of the Road Traffic Act, 1930.” [714]

2. After the said Regulation seventy the following Regulation shall be inserted :—

“ 70A.—(1) Without prejudice to Regulation seventy of these Regulations, the Minister of War Transport may by order provide, in such cases and subject to such conditions as may be specified in the order—

(a) for raising from five miles per hour to ten miles per hour the speed limit applicable by virtue of section ten of, and the First Schedule to, the Road Traffic Act, 1930, as amended by the Road Traffic Act, 1934, to a motor vehicle when drawing an agricultural trailer the wheels of which are not fitted with pneumatic, soft or elastic tyres ;

(b) for exempting from any speed limit applicable to passenger vehicles by virtue of the said section ten and the said First Schedule, a passenger vehicle constructed to carry not more than seven persons (exclusive of the driver) when drawing a trailer used solely for containing or producing gaseous fuel for the purpose of the propulsion of the vehicle.

(2) Section three of the Road Traffic Act, 1934 (which exempts from speed limits motor vehicles used for fire brigade, ambulance or police purposes), shall have effect as if after the words ‘ police purposes ’ there were inserted the words ‘ or the purposes of the Land Incident Company of the Royal Army Service Corps or the purposes of any emergency blood-transfusion service administered by the Minister of Health or the Secretary of State ’.

(3) Notwithstanding anything in section eighteen of the Road Traffic Act, 1930, as amended by the Road Traffic Act, 1934, a heavy motor car or a motor car may draw two trailer pumps used for fire brigade purposes, if the laden weight of each pump does not exceed twenty-five hundredweight.

(4) Where any heavy motor car or motor car to which an unladen trailer is attached (as hereinafter defined) is, in consequence of a breakdown, being drawn by another motor vehicle, the car and trailer shall, for the purposes of the said section eighteen, be treated as a single trailer.

In this paragraph the expression ‘ attached ’ means so attached that part of the trailer is superimposed on the drawing vehicle and that, when the trailer is uniformly loaded, not less than twenty per cent. of the weight of its load is borne by the drawing vehicle.

(5) The provisions of the Road Traffic Act, 1930, as amended by the Road Traffic Act, 1934, which regulate the number of trailers which may be drawn by motor vehicles shall not apply to trailers which are in the course of manufacture under a contract with the Minister of Supply or are being delivered in pursuance of such a contract.

(6) In this Regulation and in the Road Traffic Acts, 1930 to 1934, the expression ‘ fire brigade purposes ’ includes the purposes of the National Fire Service, and in this Regulation the expression ‘ agricultural trailer ’ means a trailer belonging to a person engaged in agriculture which is used on a road only for the conveyance of agricultural produce or of articles required for the purposes of agriculture, and the expressions ‘ motor car ’ and ‘ heavy motor car ’ have the same meanings respectively as in the Road Traffic Act, 1930.” [715]

\* \* \* \* \*

Note as to S. R. & O., 1943, No. 915.—*The regulations and orders referred to in Article 1 of this Order provide, in the case of certain specified roads, that traffic shall be one-way, or that the speed limit shall be reduced, or that vehicles shall not wait at the side of the road or shall only wait on one side, or that vehicles above a certain weight shall not use the roads, and for other matters affecting the use of vehicles on particular roads.*

## THE WAR DAMAGE (HIGHWAYS SCHEME) ORDER, 1943

S. R. & O., 1943, No. 469

March 25, 1943

The Lords Commissioners of His Majesty's Treasury, by virtue of the power conferred on them by section forty-one of the War Damage Act, 1941, and of all other powers enabling them in that behalf, hereby order that the following Scheme shall have effect, subject as provided by subsection (9) of that section :—

## PRELIMINARY

1. This Scheme may be cited as the War Damage (Highways) Scheme, 1943. [716]

2.—(1) In this Scheme, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say :—

“ the Act ” means the War Damage Act, 1941, as amended by the War Damage (Amendment) Act, 1942 ;

“ the Commission ” means the War Damage Commission ;

“ the contributions ” means the contributions to be made under subsection (2) of section forty-one of the Act ;

“ damage ” means war damage ;

“ highway ” means a highway maintainable at the public expense ;

“ highway payments ” means payments to be made under subsection (2) of section forty-one of the Act to highway authorities in respect of damage to highways.

(2) The Interpretation Act, 1889, shall apply to the interpretation of this Scheme as it applies to the interpretation of an Act of Parliament, and, without prejudice to section thirty-one of that Act, paragraph 7 of the Third Schedule to the Act shall apply to the interpretation of this Scheme as it applies to the interpretation of that Schedule. [717]

## PAYMENTS

*Payments in respect of damage to highways maintainable at the public expense*

3. The provisions subject to and in accordance with which highway payments are to be made shall be as provided in Articles 4 to 8 of this Scheme. [718]

4. Highway payments shall be made by reference, as provided by Article 5 of this Scheme, to the proper cost (as defined in that Article) of any such measures as the following, that is to say—

(a) the making good or partial making good of damage to a highway by reinstating any of it that has suffered damage, either in the form in which it was immediately before the occurrence of the damage or with alterations, additions or omissions ; or

(b) measures taken for the purpose of providing facilities which were provided by a highway or any part thereof immediately before the occurrence of damage thereto, and which ceased to be available, or the use of which was impeded, in consequence of the damage.

[719]

5.—(1) Subject to the provisions of paragraph (3) of this Article, the amount which may be paid in respect of any damage to a highway (in this



Article referred to as "the permissible amount") shall not exceed the proper cost of making good that damage by reinstating so much of the highway as suffered the damage in the form in which it was immediately before the occurrence thereof.

(2) Subject as aforesaid the payment to be made in respect of any damage to a highway shall be of an amount equal to so much as falls within the permissible amount of the proper cost of the taking in relation to the damage of any such measures as are specified in Article 4 of this Scheme, and that amount shall be paid to the highway authority incurring that cost, or, if more than one, divided between them in such manner as may be determined by agreement between them, or, in default of agreement, in such manner as may be determined by the Commission.

(3) Where any such measures as aforesaid are reasonably taken in relation to any damage as measures for temporarily meeting the circumstances created thereby, whether on one or more occasions, and subsequently further such measures are taken in relation thereto as measures for permanently meeting those circumstances, then,—

(a) a payment shall be made in respect of the damage of an amount equal to so much as falls within the permissible amount of what would have been the proper cost of effecting in the first instance the reinstatement or provision effected by the permanent measures, and that amount shall be paid to the highway authority incurring the proper cost of the measures taken, or, if more than one, divided between them as aforesaid; and

(b) a further payment shall be made in respect of the damage of an amount equal to so much of the proper cost of any of the temporary measures as was incurred in connection with works which had ceased to be of service before, or were abandoned on, the taking of subsequent temporary measures or of the permanent measures, together with the proper cost of any removals or other works necessary in connection with abandonment, and that amount shall be paid to the highway authority incurring the proper cost of those measures and works, or, if more than one, divided between them as aforesaid.

(4) In this Article the expression "proper cost" means, as respects any operation the proper cost of which falls to be ascertained thereunder, such cost incurred by a highway authority as it was or would have been reasonably necessary for the authority to incur for the purposes of that operation, regard being had to the prices or rates current at the time of execution thereof at which materials, manufactured articles and plant were or would have been available to the authority for purchase or hire, the rates then current of wages, salaries or other remuneration payable to workmen, clerical or other staff, contractors and persons employed in an advisory or supervisory capacity in connection with the execution thereof, and all other relevant considerations.

(5) Where it is necessary, in order to carry out any operation the proper cost of which falls to be ascertained under this Article, to acquire an interest or right in or over land, an amount equal to the reasonable cost of the acquisition shall be treated as part of the proper cost of the operation.

(6) A deduction shall be made from the amount to be paid in respect of any damage, as computed under the preceding provisions of this Article, in respect of any articles, or of any interest or right in or over land, which either—

(a) formed part of the highway or of the property of the highway authority held for the purposes thereof and became available as materials



or for substituted use or for disposal in consequence whether directly or indirectly of the damage or of the taking in relation thereto of any such measures as are specified in Article 4 of this Scheme; or

- (b) were provided or acquired for the purposes of any such measures as aforesaid taken in relation to the damage and have become or are likely to become available as aforesaid otherwise than for those purposes;

of an amount equal to the value thereof as materials or for substituted use or for disposal, as the case may be.

(7) Any question arising in giving effect to the preceding provisions of this Article (including any question whether any measures taken were such measures as are specified in Article 4 of this Scheme) shall be determined by the Commission:

Provided that subsection (3) of section six of the Act (which relates to appeals to the High Court on questions of law) shall have effect in relation to a determination by the Commission of any such question.

(8) Where a highway suffers damage in more than one part or on more than one occasion, the Commission may for the purposes of this Article deal with the damage to any of those parts, or occurring on any of those occasions, either together or separately as they think fit.

In relation to damages occurring on two or more occasions that is dealt with together, references in this Scheme to the occurrence of the damage shall be construed as references to the occurrence of the damage sustained on the first occasion. [720]

6. Subsection (1) of section eight of the Act (which relates to the time when payments may be made) shall have effect in relation to a highway payment as it has effect in relation to a payment of cost of works. [721]

7. Section thirteen of the Act (which relates to wages and conditions of employment for works the subject of payments) shall have effect in relation to works the cost of which may be the subject of a highway payment as it has effect in relation to works which may be the subject of a payment of cost of works, with the substitution of references to such a payment for references to a payment of cost of works. [722]

8. No highway payment shall be made in respect of damage to so much of any highway as is situated in the London civil defence region. [723]

*Payments in respect of damage to roads not being highways maintainable at the public expense*

9. The Commission may make, in respect of damage to any road not being a highway, in any case in which works for the making good of damage thereto are executed by any highway authority, a payment or payments not exceeding in amount what would have been payable if the road had been a highway, and the preceding Articles shall have effect with the requisite modifications in relation to any such payment:

Provided that no payment shall be made in respect of so much of any such road as is situated in the London civil defence region. [724]

CONTRIBUTIONS

10.—(1) The estimates required for the purposes of subsection (4) of section forty-one of the Act shall be made by the Treasury.

(2) The Treasury shall, in relation to the interim instalments of the contributions becoming due in each year, certify what appears to them, by

reference to the estimates made by them up to the time when the certificate is issued, to be—

- (a) the proportion specified in paragraph (a) of subsection (4) of section forty-one of the Act; and
- (b) the aggregate of the highway payments made and expected to be made:

Provided that, if the Treasury are satisfied that the certification of the said proportion in relation to the interim instalments becoming due in any year would be inexpedient in the interests of the defence of the realm or the efficient prosecution of any war in which His Majesty may be engaged, they may direct that in relation thereto the said proportion shall not be certified but shall be taken to be one half.

(3) In the subsequent provisions of this Article the expressions “the certified proportion” and “the certified aggregate of highway payments” mean respectively, in relation to any instalments, the proportion certified in relation to those instalments under sub-paragraph (a) of the last preceding paragraph (or, if a direction is given under the proviso to the last preceding paragraph in relation thereto, one half), and the aggregate certified in relation to those instalments under sub-paragraph (b) of the last preceding paragraph.

(4) The aggregate of the first interim instalments shall be one-fifth of the certified proportion of the certified aggregate of highway payments.

(5) The aggregate of the second interim instalments shall be ascertained by taking two-fifths of the certified proportion of the certified aggregate of highway payments, and deducting therefrom the aggregate of the first interim instalments.

(6) The aggregates of the third, fourth and fifth interim instalments respectively shall be ascertained by taking three-fifths, four-fifths and the whole respectively of the certified proportion of the certified aggregate of highway payments, and deducting therefrom the sum of the aggregates of the previous instalments.

(7) As soon as it appears to the Treasury that the relevant amounts have become ascertainable with sufficient accuracy for securing as nearly as may be the purpose specified in paragraph (a) of subsection (4) of section forty-one of the Act, the Treasury shall make a final estimate of the proportion specified in that paragraph and of the aggregate of the highway payments which have been made or may still be expected to be made, and the aggregate of the final instalments of the contributions shall be the amount, as certified by the Treasury, by which the sum of the aggregates of the interim instalments falls short of the said specified proportion as finally estimated of the highway payments as finally estimated. [725]

11.—(1) Each interim instalment, and the final instalment, to be paid by any contributory council, (that is to say the council of any county, county borough, or large burgh within the meaning of the Local Government (Scotland) Act, 1929,) shall bear to the aggregate of the corresponding interim instalments, or of the final instalments, as the case may be, to be paid by all contributory councils, the same proportion as the certified sum of the rateable values of all property in the area of that council bore to the amount obtained by adding together the certified sums of the rateable values of all property in the areas of all contributory councils.

(2) In this Article references to the certified sum of the rateable values of all property in the area of a council shall be construed as references—

- (a) except in the case of a council in Scotland, to the amount certified by the appropriate authority to be the sum of those values as

appearing on the first (or, in the case of a council in the administrative county of London, the sixth) day of April, nineteen hundred and thirty-nine, in the valuation lists in force on that date ; and

- (b) in the case of a council in Scotland, to four-fifths of the amount certified by the appropriate authority to be the sum of those values as appearing on the sixteenth day of May, nineteen hundred and thirty-nine, in the valuation roll in force on that date.

(3) In this Article the expression "appropriate authority" means, except in the case of a council in Scotland or Northern Ireland, the Minister of Health, in the case of a council in Scotland the Secretary of State, and in the case of a council in Northern Ireland the Ministry of Home Affairs for Northern Ireland. [726]

12.—(1) Section thirty-six of the Act (which provides for the assessment and collection by the Commissioners of Inland Revenue of instalments of the contributions to be made under section eighteen of the Act) shall have effect in relation to instalments of the contributions.

(2) The said Commissioners shall take no steps to recover any of the interim instalments of the contributions due in the years nineteen hundred and forty-one to nineteen hundred and forty-four respectively before the following dates respectively, that is to say, the first day of July, nineteen hundred and forty-three, the first day of January, nineteen hundred and forty-four, the first day of July, nineteen hundred and forty-four, and the first day of January, nineteen hundred and forty-five.

(3) The interim instalments of the contributions due in the year nineteen hundred and forty-five shall become due and be recoverable on the thirty-first day of December in that year, and the final instalments shall become due and be recoverable at such date as may be specified by the Treasury. [727]

#### ROAD FUND GRANTS

13. The Minister of War Transport may, with the approval of the Treasury pay to the council of each county and county borough in Great Britain, and to the council of each such large burgh as aforesaid, a grant in respect of each instalment of the contributions which becomes due from that council not exceeding one-half of the amount of that instalment recovered from that council. [728]

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### THE WAR DAMAGE (NOTIFICATION AND CLAIMS) (HIGHWAYS) REGULATIONS, 1943

*S. R. & O., 1943, No. 612*

*April 21, 1943*

The Lords Commissioners of His Majesty's Treasury, in pursuance of the powers conferred upon them by Section 10 of the War Damage Act, 1941 (hereinafter called "the Act"), hereby make the following Regulations :—

1.—(1) These Regulations may be cited as the War Damage (Notification and Claims) (Highways) Regulations, 1943.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [729]

2. Any notification of damage, claim for payment, application, particulars or statement to be given, made or furnished under these Regulations shall be given, made or furnished in the form required by the Commission. [730]

3.—(1) Any Highway Authority which proposes to make a claim for payment under sub-section (2) or sub-section (6), as the case may be, of Section 41 of the Act shall notify the Commission of the occurrence of the event which caused the war damage.

- (a) in a case where the event occurred before the coming into force of these Regulations, within 30 days after the date of these Regulations, and
  - (b) in a case where the event occurred after the coming into force of these Regulations, within 30 days after the occurrence of that event.
- (2) Such notification shall contain the following particulars, that is to say :—

- (a) particulars as to the highway or road which has been damaged and as to the situation of the war damage ;
  - (b) particulars as to the date, cause and extent of the war damage ;
  - (c) particulars as to the measures already taken, or proposed to be taken, for making good the war damage or for providing alternative facilities ;
  - (d) an estimate of the cost already incurred and still to be incurred in respect of such measures ;
  - (e) particulars as to the estimated probable date of reinstatement or of provision of alternative facilities ;
  - (f) any further particulars reasonably required by the Commission to enable them to verify the fact and extent of the war damage.
- [731]

4.—(1) A claim for a payment under sub-section (2) or sub-section (6) of Section 41 of the Act in respect of measures taken for making good the damage or for providing alternative facilities, whether of a permanent or of a temporary character, shall be made in the form required by the Commission as soon as practicable after the completion of the measures in respect of which the claim is made.

(2) The Claimant shall, as and when required by the Commission and within thirty days after receipt of the request, furnish to the Commission :—

- (a) particulars as to the measures taken in respect of which the claim is made and as to the cost thereof ;
- (b) the time at which the measures were taken and completed ;
- (c) particulars of any measures not yet taken and necessary for the making good of the damage or for providing alternative facilities and an estimate of the cost thereof ;
- (d) particulars of any difference in the form of reinstatement from the form immediately before the occurrence of the damage ;
- (e) if any further war damage has occurred to the highway or road since the delivery of the notification of damage, particulars as to the date, cause and extent thereof ;
- (f) particulars as to any articles or any interest or right in or over land which formed part of the highway or road or of the property of the highway authority held for the purposes thereof and have become available as materials or for substituted use or for disposal in consequence, whether directly or indirectly, of the damage or of the taking of measures for the making good of the damage or for providing alternative facilities and as to the value and use or disposal of any such article right or interest ;

- (g) particulars of any articles or of any interest or right in or over land provided or acquired for the purposes of any measures (whether temporary or permanent), taken for the making good of the damage or for the provision of alternative facilities, which have become, or are likely to become, available as materials or for substituted use or for disposal otherwise than for those purposes and as to the value and use or disposal thereof;
- (h) particulars of any materials made available by any Government Department without charge or acquired with the assistance of grants for Air Raid Precaution purposes;
- (i) particulars of any sums received, or expected to be received from a Government Department or other authority in respect of the war damage;
- (j) a statement of the amount claimed together with such other particulars and relevant invoices, vouchers, estimates and documents as the Commission may reasonably require to enable them to verify the claim. [732]

5. All accounts, records and documents relating to claims for payment shall be open to inspection at all reasonable times by duly authorised representatives of the Commission. [733]

6. It shall be a condition of the right to receive a payment under sub-section (2) or sub-section (6) of Section 41 of the Act that :—

- (a) notification of the occurrence of the war damage to the highway or road in respect of which the claim is made has been given in accordance with the provisions of Regulation 3;
- (b) a claim for payment in respect thereof has been duly made in accordance with the provisions of these Regulations; and
- (c) the requirements of these Regulations and of the Commission thereunder have been duly observed. [734]

7. The Commission may in their discretion in particular cases extend any limit of time specified in or under these Regulations. [735]

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## THE WAR DAMAGE (HIGHWAYS) CONTRIBUTION REGULATIONS, 1943

*S. R. & O., 1943, No. 808*

May 28, 1943

1. *Citation.*—These Regulations may be cited as the War Damage (Highways) Contribution Regulations, 1943. [736]

2. *Interpretation.*—(1) In these Regulations—

“contributory council” means the council of any county or county borough, or of any large burgh within the meaning of the Local Government (Scotland) Act, 1929;

“highway instalment” means any interim or final instalment of contribution to be paid by a contributory council under the provisions of Section 41 of the War Damage Act, 1941, and the War Damage (Highways) Scheme, 1943, made thereunder.

(2) The Interpretation Act, 1889, shall apply for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament. [737]

3. *Demands for payment and payment.*—When an assessment has been made by the Commissioners of Inland Revenue as respects any highway instalment, demand for payment of the instalment shall be sent to the contributory council liable for payment and payment shall be made to the Accountant-General of Inland Revenue. [738]

4. *Recovery by proceedings in Court.*—(1) Where an assessment has been made in respect of a highway instalment, the amount charged may be recovered from a contributory council liable for payment thereof as a debt due to the Crown, either—

- (a) by proceedings in the High Court ; or
- (b) by any other means whereby any debt due to the Crown can be recovered.

(2) This Regulation shall have effect—

- (a) in relation to Scotland, as if for the reference to the High Court there were substituted a reference to the Court of Session sitting as the Court of Exchequer ;
- (b) in relation to Northern Ireland, as if for the reference to the High Court there were substituted a reference to the Supreme Court.

(3) Proceedings in the Court of Session under this Regulation shall be taken in the name of the Lord Advocate. [739]

5. *Evidence.*—A certificate—

- (a) by a secretary or assistant secretary to the Commissioners of Inland Revenue that an assessment has been duly made in respect of a highway instalment of an amount specified in the certificate ; or
- (b) by such a secretary or assistant secretary that a highway instalment has been demanded from a contributory council named in the certificate ; or
- (c) by such a secretary or assistant secretary that no grounds for non-payment of a highway instalment by the contributory council from whom it was demanded have been advanced to the Commissioners of Inland Revenue before the date of the certificate ; or
- (d) by the Accountant-General of Inland Revenue that payment of a highway instalment has not been made to him, or to the best of his knowledge and belief to any other person on his behalf ; or
- (e) by a secretary or assistant secretary to the Commissioners of Inland Revenue as to any proportion, aggregate, or certified sum of rateable values certified under any provision of the War Damage (Highways) Scheme, 1943, by the Treasury or, as the case may be, an appropriate authority ;

shall be prima facie evidence of the matters stated in the certificate ; and where in respect of any highway instalment such a certificate as is mentioned in head (a) is accompanied by such certificates as are mentioned in heads (b), (c) and (d) of this Regulation, the certificates shall be prima facie evidence that the highway instalment is unpaid and is due and owing to the Crown by the contributory council named as aforesaid. [740]

6. *Unpaid parts of highway instalments.*—The provisions of Regulations 4 and 5 of these Regulations shall apply in relation to the recovery of an unpaid part of a highway instalment as they apply in relation to the recovery of an unpaid highway instalment. [741]

7. *Application of existing Regulations.*—The provisions of the War Damage Contribution (No. 3) Regulations, 1942, specified in the first column of the following Table (which relate to the matters specified in the second column of that Table) shall, with the necessary modifications, apply in relation to the assessment and collection of highway instalments in like manner as they apply in relation to the assessment and collection of instalments in respect of contributory properties, but save as aforesaid the last-mentioned Regulations shall not apply to highway instalments. [742]

*Table*

Regulation 25—Exercise of powers of Commissioners of Inland Revenue.  
 Regulation 26—Proof of authority to act.  
 Regulation 27—Forms.  
 Regulation 29—Want of form or error not to invalidate assessment, etc.  
 Regulation 30—Cases where assessments, etc., are lost, destroyed or damaged. [743]

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## THE KENT (COUNTY ROADS CESSER) ORDER, 1943

*S. R. & O., 1943, No. 229*

*February 13, 1943*

Whereas the County Council of Kent being, within the meaning of the Highways and Locomotives (Amendment) Act, 1878 (hereinafter referred to as "the Act"), the County Authority of the Administrative County of Kent, made application to the Minister of Transport for the issue of an Order declaring that the road which is more particularly described in the Schedule hereto (hereinafter referred to as "the road") and which is a County Road within the meaning of the Act, as amended by the Local Government Act, 1929, shall cease to be a County Road and shall become an ordinary highway ;

And whereas by the Ministers of the Crown (Minister of War Transport) Order, 1941, all functions exercisable by the Minister of Transport have been transferred to the Minister of War Transport (hereinafter referred to as "the Minister") ;

And whereas the Minister, being of opinion that there was probable cause for the said application, caused the road to be inspected by one of his Inspectors and, report having been made thereon, the Minister is satisfied that the road should cease to be a County Road and should become an ordinary highway ;

Now, therefore, the Minister, in pursuance of the powers given to him in that behalf, hereby orders and declares as follows :—

1. The road shall cease to be a County Road and shall, subject to the provisions of the Act, as amended as aforesaid, become an ordinary highway. [744]

2. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament. [745]

3. This Order may be cited as "The Kent (County Roads Cesser) Order, 1943", and shall come into operation on the date hereof. [746]



## SCHEDULE

*Description of Road**Southborough Urban District.*

The service road which is situated on the west side of and approximately parallel to the Tonbridge—Tunbridge Wells Road (A.26) and which joins route A.26 at points approximately 60 yards and 500 yards south of the junction of route A.26 with the Bidborough—Penshurst Road (B.2176). [747]

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## THE WEST SUSSEX (COUNTY ROADS CESSER) ORDER, 1943

*S. R. & O., 1943, No. 510*

*March 18, 1943*

Whereas the County Council of West Sussex being, within the meaning of the Highways and Locomotives (Amendment) Act, 1878 (hereinafter referred to as "the Act"), the County Authority of the Administrative County of West Sussex, made application to the Minister of Transport for the issue of an Order declaring that the length of road which is more particularly described in the Schedule hereto (hereinafter referred to as "the road") and which is part of a county road within the meaning of the Act, as amended by the Local Government Act, 1929, shall cease to form part of a county road and shall become an ordinary highway;

And whereas by the Ministers of the Crown (Minister of War Transport) Order, 1941, all functions exercisable by the Minister of Transport have been transferred to the Minister of War Transport (hereinafter referred to as "the Minister");

And whereas the Minister, being of opinion that there was probable cause for the said application, caused the road to be inspected by one of his Inspectors and, report having been made thereon, the Minister is satisfied that the road should cease to form part of a county road and should become an ordinary highway;

Now, therefore, the Minister, in pursuance of the powers given to him in that behalf, hereby orders and declares as follows:—

1. The road shall cease to form part of a county road and shall, subject to the provisions of the Act, as amended as aforesaid, become an ordinary highway. [748]

2. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament. [749]

3. This Order may be cited as "The West Sussex (County Roads Cesser) Order, 1943", and shall come into operation on the date hereof. [750]

## SCHEDULE

*Description of Road**Urban District of Bognor Regis.*

The road through the village of Felpham previously known as the Dover-Chichester Road (A.259), from its junction with the south-western end of the Felpham By-Pass to its junction with the north-eastern end of the said By-Pass. [751]

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# THE CORNWALL (COUNTY ROADS CESSER) ORDER, 1943

*S. R. & O., 1943, No. 553*

*March 18, 1943*

Whereas the County Council of Cornwall being, within the meaning of the Highways and Locomotives (Amendment) Act, 1878 (hereinafter referred to as "the Act"), the County Authority of the Administrative County of Cornwall, made application to the Minister of War Transport (hereinafter referred to as "the Minister") for the issue of an Order declaring that the length of road which is more particularly described in the Schedule hereto (hereinafter referred to as "the road") and which forms part of a county road within the meaning of the Act, as amended by the Local Government Act, 1929, shall cease to form part of a county road and shall become an ordinary highway;

And whereas the Minister, being of opinion that there was probable cause for the said application, caused the road to be inspected by one of his Inspectors and, report having been made thereon, the Minister is satisfied that the road should cease to form part of a county road and should become an ordinary highway;

Now, therefore, the Minister, in pursuance of the powers given to him in that behalf, hereby orders and declares as follows:—

1. The road shall cease to form part of a county road and shall, subject to the provisions of the Act, as amended as aforesaid, become an ordinary highway. [752]

2. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament. [753]

3. This Order may be cited as "The Cornwall (County Roads Cesser) Order, 1943", and shall come into operation on the date hereof. [754]

## SCHEDULE

### *Description of Road*

*Urban District of Camborne-Redruth.*

The length of road connecting Route B.3300 at Vauxhall, North Street, Plain an Gwarry and Rose Hill, with Route A.30 at North Close. [755]

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## HORSES, PONIES, MULES OR ASSES

*See ANIMALS.*

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# HOSPITALS

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## STATUTES

### THE NURSES ACT, 1943

(6 & 7 Geo. 6, c. 17)

#### PRELIMINARY NOTE

The Nurses Registration Act, 1919 (11 Statutes 748), which is to be cited with the present Act as the Nurses Acts, 1919 and 1943, is the Act from which the State Registered Nurse derives her status. By the Act of 1919 the General Nursing Council for England and Wales was established and entrusted with the duty of compiling and keeping a register of sick nurses divided into a general part containing the names of all nurses qualified to be entered therein and several supplementary parts respectively containing the names of special classes of nurses. The effect of rules under the Act is to confine the right to registration to nurses who successfully complete a lengthy and rigorous training and attain a high standard in examinations covering a wide range of practical and theoretical subjects. The 1919 Act imposes heavy penalties for the unlawful assumption of the title of State Registered Nurse, but it does not affect the right of persons who are not on the register to call themselves nurses or prevent them from practising as nurses.

The Nurses Act, 1943, has the triple object of securing that assistant nurses shall be given a recognised status and placed on a roll to be compiled and kept by the General Nursing Council, protecting the public from unqualified persons who represent themselves to be nurses, and subjecting the agencies for the supply of nurses commonly known as "nurses co-operations" to a system of control by means of licensing and inspection. In so far as it seeks to achieve these ends the Act fulfils the recommendation made in the Interim Report issued in 1939 by the Interdepartmental Committee on Nursing Services, known as the Athlone Committee, and also certain suggestions put forward in 1942 by the Nursing Reconstruction Committee of the Royal College of Nursing.

At the present time there are about 16,000 persons employed in hospitals as assistant nurses. Some of them are nurses who have failed to complete the training necessary as a preliminary to state registration, others are nursing auxiliaries in the Civil Nursing Reserve or members of Voluntary Aid Detachments. Hitherto no minimum standard to which an assistant nurse must attain before she can be employed as such has been laid down, with the result that many persons who have had no training and little or no experience call themselves nurses and are employed in the capacity of assistant nurses, while the title "assistant nurse" has no accepted meaning. This state of affairs is to be remedied under Part I of the Act, which provides for the formation of a roll of assistant nurses to be kept by the General Nursing Council, and for the making of rules by the Council on the lines of those made by it under the Nurses Registration Act, 1919 (11 Statutes 748). In the rules to be made under the present Act the Council is to prescribe the training required by assistant nurses, its duration, the places where it may be taken, the conduct of examinations and the conditions of removal of an assistant nurse from the roll. Provision is to be made for the admission thereto without examination of existing assistant nurses in *bona fide* nursing practice who have certain minimum qualifications. The result will be that assistant nurses will acquire a definite professional status, and that the title "assistant nurse" will receive a definite meaning as describing a person who, while not having undergone the full training necessary for a State Registered Nurse, has reached a certain standard in the theory and practice of nursing. A special committee of the Council, to be known as the Assistant

Nurses Committee, is to be constituted for the purpose of dealing with all matters wholly or mainly concerning assistant nurses. A right of appeal against a decision of the Committee removing the name of a person from the assistant nurses' roll lies to the High Court and against a decision of the Council refusing to approve an institution for training purposes to the Minister of Health.

The Act protects the public from the ministrations of unqualified persons not only by the provisions above referred to, which will have the effect of ensuring that all assistant nurses have a certain modicum of knowledge and experience, but by s. 6 which provides that no person may use the title of nurse other than a State Registered Nurse or an Enrolled Assistant Nurse. An exception is made in the case of children's nurses so that the traditional "Nannie" may still be called nurse, and the Minister of Health is empowered to make further exceptions. It is anticipated that this power will be exercised so as to safeguard the right of mental nurses and tuberculosis nurses, but it has been announced that exceptions will be kept to the minimum (387 H. of C. Official Report 1652). An additional safeguard to the public is provided by s. 15 which imposes penalties on third parties who represent as registered or enrolled nurses persons who are not registered or enrolled.

Part II of the Act deals with the licensing of agencies for the supply of nurses which are frequently known as "nurses co-operations," but which are in fact merely employment agencies. Hitherto some of these agencies, which supply hospitals as well as private patients, have been in the habit of sending out at high fees assistant nurses of little skill without any indication that they are not fully qualified. S. 7 of the Act provides that as from a date to be appointed agencies shall not supply any persons other than State Registered Nurses, Enrolled Assistant Nurses, certified midwives and such other persons as may be prescribed and that the selection of any persons supplied shall be made by a registered nurse or medical practitioner. Other provisions of Part II make all agencies subject to licence and inspection of County Councils (who may however delegate their functions to district councils), county borough councils, and, in the City of London, the Common Council, and deal in common form with licensing procedure and enforcement.

The Act also contains certain miscellaneous provisions affecting the nursing profession. Of these the most important are s. 16 which for the first time empowers the General Nursing Council to make rules governing the training and qualification of persons employed as teachers in training schools for nurses, and s. 18 which requires the Council to compile and keep a list of persons who possess qualifications which would have entitled them to be registered under the Nurses Registration Act, 1919, as "existing nurses" but who for various reasons failed to apply for registration within the period allowed for that purpose. [756]

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*An Act to provide for the enrolment of assistant nurses for the sick, to restrict the use of the name or title of nurse, to regulate agencies for the supply of nurses for the sick and to amend the Nurses Registration Act, 1919. [757]*

[22nd April 1943]

## PART I

## ENROLMENT OF ASSISTANT NURSES

**1. Roll of assistant nurses.**—(1) It shall be the duty of the General Nursing Council for England and Wales (in this Act referred to as “the Council”) to form and keep a roll of assistant nurses subject to and in accordance with the provisions of this Act. [758]

(2) A certificate under the seal of the Council duly authenticated in the prescribed manner stating that any person is, or was at any date, or is not, or was not at any date, duly enrolled shall be evidence in all courts of law of the fact stated in the certificate. [759]

As to the General Nursing Council, see the Nurses Registration Act, 1919, s. 1, and Sched. (11 Statutes 748, 752).

The effect of sub-s. (2) is to make the Council's certificate *prima facie* evidence only, but to leave it possible for another party to bring forward evidence to show that there is a mistake in the certificate. Cf. s. 17, *infra*, which makes a consequential amendment in the Nurses Registration Act, 1919, s. 2 (3) (11 Statutes 749).

**2. Rules.**—(1) The Council shall make rules for the following purposes :—

- (a) for regulating the formation, maintenance and publication of the roll ;
- (b) for regulating the conditions of admission to the roll ;
- (c) for regulating the conduct of any examinations which may be prescribed as a condition of admission to the roll, and any matters ancillary to or connected with any such examinations ;
- (d) for prescribing the causes for which, the conditions under which and the manner in which persons may be removed from the roll, the procedure for the restoration to the roll of persons who have been removed therefrom, and the fee to be payable on such restoration ;
- (e) generally for making provision with respect to any matters with respect to which the Council think that provision should be made for the purpose of carrying this Part of this Act into effect (including provision with respect to the issue of certificates to persons enrolled and with respect to the uniform or badge

which may be worn by persons enrolled), and for prescribing anything which under this Part of this Act is to be prescribed. [760]

(2) Rules under this section shall contain provisions—

- (a) requiring as a condition of the admission of any person to the roll that that person shall have undergone the prescribed training, and shall possess the prescribed experience, in nursing ; and
- (b) requiring that the prescribed training shall be carried out either in an institution approved by the Council in that behalf or in the service of the Admiralty, the Army Council or the Air Council ; and
- (c) enabling persons who, within the period of two years after the date on which the rules to be made under the provisions of this paragraph first come into operation, make an application in that behalf (in this Act referred to as “ an existing assistant nurse’s application ”), to be admitted to the roll on producing evidence to the satisfaction of the Council that they are of good character, are of the prescribed age, are persons who were for at least the prescribed period before the seventeenth day of March, nineteen hundred and forty-three, bona fide engaged in practice as nurses under conditions which appear to the Council to be satisfactory for the purposes of this provision and have such knowledge and experience of nursing as to justify their enrolment. [761]

(3) If provision is made by Parliament, or by the Parliament of Northern Ireland, for the establishment of a roll of assistant nurses in Scotland or Northern Ireland, the Council—

- (a) shall make rules under this section enabling persons enrolled as assistant nurses in Scotland or Northern Ireland, as the case may be, to obtain admission to the roll established under this Part of this Act ;
- (b) shall, with a view to securing a uniform standard of qualification in all parts of the United Kingdom, consult with the body responsible for keeping the roll in Scotland or, as the case may be, in Northern Ireland before making any rules or, as the case may be, any further rules, under this section with respect to the conditions of admission to the roll. [762]

This section corresponds very closely to the Nurses Registration Act, 1919, s. 3 (11 Statutes 749), and should be compared therewith. Both sections must now be read in conjunction with s. 16 of the present Act, *infra*.

**3. The Assistant Nurses Committee.**—(1) There shall be a Committee of the Council, to be called the Assistant Nurses Committee (in this Act referred to as “ the Committee ”) constituted in accordance with the provisions contained in the First Schedule to this Act. [763]

(2) Any matter which wholly or mainly concerns assistant nurses shall stand referred to the Committee and any other matter may be referred by the Council to the Committee ; and the Committee shall consider the matter and report upon it to the Council, and the Council, before taking any action on the matter, shall, unless in the opinion of the Council the matter is urgent, receive and consider the report of the Committee :

Provided that the following matters, that is to say—

- (a) any question whether any person shall be removed from or restored to the roll, and any matter arising out of any such question ; and
- (b) any other matter referred to the Committee in so far as the Council expressly authorise the Committee to deal with it,



shall be finally dealt with by the Committee on behalf of the Council, and the Committee shall make a report to the Council as to the way they have dealt with it. [764]

(3) The Council may pay to members of the Committee sums (to be calculated in accordance with directions to be given by the Minister) in respect of their travelling expenses and by way of subsistence allowance. [765]

Although the Assistant Nurses Committee is to be a committee of the Council, the members of the committee representing assistant nurses (who are to be appointed in the first instance by the Minister of Health) need not be members of the Council. See Sched. I, *infra*.

**4. Fees.**—(1) There shall be paid to the Council in respect of every application to be examined or to be enrolled under this Act, and in respect of the retention in any year of the name of any person on the roll, such fees respectively as the Council may, with the approval of the Minister, from time to time determine :

Provided that—

- (a) in the case of an existing assistant nurse's application, the amount of the fee payable on the application shall be such sum, not exceeding one guinea, as the Council, with such approval as aforesaid, may determine ; and
- (b) the amount of the fee payable in respect of the retention in any year of the name of any person on the roll shall not exceed two shillings and sixpence. [766]

(2) It is hereby declared that the power conferred on the Council by subsection (2) of section five of the principal Act to charge fees for certificates and documents issued, and services performed, by them extends to certificates, documents and services issued and performed under this Part of this Act. [767]

For the establishment of the roll, see s. 1, *supra*.

An existing assistant nurse's application is made under s. 2 (2) (c), *supra*.

S. 5 (2) of the principal Act (*i.e.* the Nurses Registration Act, 1919 ; 11 Statutes 750), authorises the Council to charge such fees as may be prescribed for the issue of certificates and documents and the performance of services.

**5. Appeal against removal from roll, and against refusal to approve institution.**—(1) Any person aggrieved by the removal of his name from the roll may, within three months after the date on which notice is given to him by the Committee that his name has been so removed, appeal against the removal to the High Court, and on any such appeal, the High Court may give such directions in the matter as it thinks proper, including directions as to the costs of the appeal, and the order of the High Court shall be final. [768]

(2) Any person aggrieved by the refusal of the Council to approve any institution for the purposes of the rules under this Act relating to training may appeal against the refusal to the Minister and the Minister, after considering the matter, shall give such directions thereon as he thinks proper, and the Council shall comply with any directions so given. [769]

With the substitution of the roll for the register and the Committee for the Council, this section is in identical terms with s. 7 of the Nurses Registration Act, 1919 (11 Statutes 751). By R.S.C. Ord. 59, r. 19, appeals against removal from the Register under sub-s. (1) of the latter section lie to the Divisional Court and are to be made by motion supported by affidavit, or if the Court shall so direct at the hearing of the motion, by oral evidence. Presumably the same procedure will be prescribed in the case of appeals under sub-s. (1) of the present section.

The Minister is the Minister of Health, see s. 20, *post*.

**6. Restriction on use of title of nurse and assistant nurse and penalties for misuse of certificates and falsification.**—(1) As from such date as the Minister may by order direct, any person who, not being a duly registered nurse under the principal Act or a duly enrolled assistant nurse, takes or uses



the name or title of nurse, either alone or in combination with any other words or letters, shall be liable on summary conviction to a fine not exceeding, in the case of a first offence, ten pounds, and in the case of a second or any subsequent offence, fifty pounds :

Provided that (without prejudice to the provisions of section eight of the principal Act)—

- (a) nothing in this subsection shall prevent a children's nurse from taking or using the name or title of nurse, unless the circumstances in which, or the words or letters in combination with which, the name or title is taken or used are such as to suggest that he is something other than a children's nurse ;
- (b) the Minister may by regulations authorise the use, either generally or by specified classes of persons or in specified circumstances, of specified names or titles containing the word nurse or of the word nurse otherwise qualified in accordance with the regulations ;
- (c) a person shall not be guilty of an offence under this subsection by reason only that, without objection by him, other persons use the word nurse in addressing or referring to him ;
- (d) proceedings for an offence under this subsection shall not be instituted except with the consent of the Minister. [770]

(2) Any person who—

- (a) not being a person duly enrolled, takes or uses any name, title, addition, description, uniform or badge, implying that he is enrolled or is recognised by law as enrolled ; or
- (b) at any time with intent to deceive makes use of any certificate of enrolment issued to him or to any other person,

shall be liable on summary conviction to a fine not exceeding, in the case of a first offence, ten pounds, and, in the case of a second or any subsequent offence, fifty pounds. [771]

(3) If any person wilfully makes, or causes to be made, any falsification in any matter relating to the roll, he shall be guilty of a misdemeanour and shall, on conviction thereof, be liable to a fine not exceeding one hundred pounds. [772]

For the general effect of this section, see the Preliminary Note, *ante*.

The Minister is the Minister of Health, see s. 20, *post*.

As to who is a duly registered nurse, see ss. 2 and 3 of the Nurses Registration Act, 1919 (11 Statutes 748-750).

As to who is a duly enrolled assistant nurse, see ss. 1 and 2 of the present Act, *ante*.

Children's nurse, i.e. a nursery nurse or "nanny" as opposed to a sick children's nurse (compare the definitions of "nurse" and "children's nurse" in s. 20, *post*).

Sub-ss. (2) and (3) correspond to s. 8 of the Nurses Registration Act, 1919 (11 Statutes 752), to which reference should be made.

## PART II

### AGENCIES FOR THE SUPPLY OF NURSES

**7. Conduct of agencies for supply of nurses.**—(1) A person carrying on an agency for the supply of nurses shall, in carrying on that agency, only supply—

- (a) registered nurses ;
- (b) enrolled assistant nurses ;
- (c) certified midwives ;
- (d) such other classes of person as may be prescribed. [773]

(2) A person carrying on an agency for the supply of nurses shall, at the prescribed time and in the prescribed manner, give to every person to

whom he supplies a nurse, midwife, or other person a statement in writing in the prescribed form as to the qualifications of the person supplied. [774]

(3) No person shall carry on an agency for the supply of nurses unless the selection of the person to be supplied for each particular case is made by or under the supervision of a registered nurse or a registered medical practitioner. [775]

(4) A person carrying on an agency for the supply of nurses shall keep such records in relation thereto as may be prescribed. [776]

For the general purpose and effect of this section, which is to be brought into force at a future date (see s. 13 (4), *post*), see Preliminary Note, *ante*. For the power to make regulations prescribing the various matters to be prescribed under this section, see s. 13 (2), *post*.

"Agency for the supply of nurses" and "certified midwife" are defined in s. 13 (1), *post*. Registered nurses, *i.e.* persons duly entered on the register kept pursuant to s. 2 of the Nurses Registration Act, 1919 (11 Statutes 748).

Enrolled assistant nurses, *i.e.* persons duly entered on the roll to be kept pursuant to s. 1 of the present Act, *ante*.

Registered medical practitioner, *i.e.* a person registered under the Medical Acts. See Medical Act, 1886, s. 27 (11 Statutes 726).

Penalties for offences against this section are provided by s. 10, *post*.

**8. Licensing of agencies.**—(1) No person shall carry on an agency for the supply of nurses on any premises in the area of any licensing authority unless he is the holder of a licence from that authority authorising him so to do on those premises.

In this Part of this Act, the expression "licensing authority" means, in relation to the City of London, the Common Council, in relation to the remainder of the administrative county of London, the London County Council, and in relation to any other county or any county borough, the council of that county or borough. [777]

(2) Subject to the provisions of this section, if any person who desires to carry on an agency for the supply of nurses in the area of any licensing authority makes an application in that behalf to that authority in the prescribed form, in the prescribed manner, at the prescribed time and giving the prescribed information, and pays to that authority such fee as may be prescribed, the authority shall grant him a licence accordingly, subject, however, to such conditions as they may think fit for securing the proper conduct of the agency, including conditions as to the fees to be charged by the persons carrying on the agency, whether to the nurses or other persons supplied, or to the persons to whom they are supplied. [778]

(3) Any such application may be refused, and any such licence which has been granted may be revoked, on any of the following grounds, that is to say—

- (a) that the applicant or, as the case may be, the holder of the licence is an individual under the age of twenty-one years or is unsuitable to hold such a licence;
- (b) that the premises are unsuitable;
- (c) that the agency has been or is being improperly conducted; or
- (d) that offences against this Part of this Act have been committed in connection with the carrying on of the agency. [779]

(4) An applicant for or holder of any such licence who is aggrieved by the refusal of the licensing authority to grant such a licence, or by the revocation by the licensing authority of the licence, or by any conditions attached to the licence, may, within twenty-one days from the receipt by him of notice of the refusal or of the revocation or of the grant of the licence subject to the conditions, appeal to a court of summary jurisdiction, who may make such order as they think just; and the authority shall, if required by him in writing so to do, send or deliver to him within seven days of the

receipt of the requirement particulars in writing of the ground for the refusal, the revocation or the attachment of the conditions, as the case may be. [780]

(5) An application under this Part of this Act for the grant of a licence in respect of which a licence is in force at the time of the application shall not be refused and a licence under this Part of this Act shall not be revoked by a licensing authority unless the holder has been given an opportunity of being heard by the licensing authority or a committee thereof. [781]

(6) Every licensing authority shall in each year cause an annual meeting (either of the authority themselves or, if under any powers enabling them in that behalf, they have delegated their powers under this section to a committee, of that committee) to be held for the purpose of considering applications for licences under this Part of this Act, and every licence granted under this Part of this Act shall (unless revoked) be valid until the thirty-first day of December in the year next following that in which the licence is granted and no longer :

Provided that nothing in this subsection shall be construed as preventing the consideration of applications otherwise than at any such annual meeting. [782]

(7) On the death of the holder of a licence under this Part of this Act, the licence shall ensure for the benefit of his personal representatives, and references in this Part of this Act to the holder of such a licence shall be construed accordingly. [783]

This section comes into force on a date to be fixed under s. 13 (4), *post*.

Sub-s. (1) must be read in conjunction with s. 11, *post*, which empowers a county council to delegate its functions under this Part of the Act to the council of any county district within its area. Cf. s. 194 of the Public Health Act, 1936 (29 Statutes 456).

The Minister of Health has announced (388 H. of C. Official Report 676) that it is intended to use the powers conferred by s. 284 of the Local Government Act, 1933 (26 Statutes 456), and s. 174 of the London Government Act, 1939 (32 Statutes 339), to require licensing authorities to notify the Minister of any decision under sub-s. (3) to refuse or revoke any licence and to state the reason therefor, and also that it is intended to circulate to all licensing authorities a "black list" of persons to whom licences have been refused or whose licences have been revoked.

Penalties for offences against this section are provided by s. 10, *post*.

**9. Enforcement.**—(1) It shall be the duty of the licensing authority to enforce the provisions of this Part of this Act. [784]

(2) Any registered nurse or other officer duly authorised in that behalf by the licensing authority may at all reasonable times on producing, if so required, some duly authenticated document showing his authority—

(a) enter the premises specified in any licence or application under this Part of this Act or any premises which are used, or which that officer has reasonable cause to believe are used, for the purposes of or in connection with an agency for the supply of nurses ; and

(b) inspect those premises and the records kept in connection with any such agency as aforesaid carried on at those premises,

and no person shall obstruct any such officer in the execution of his duty. [785]

As to who is the licensing authority, see s. 8, *ante*.

Registered nurse, *i.e.* a person registered under the Nurses Registration Act, 1919 (11 Statutes 748).

Penalties are provided by s. 10, *infra*.

**10. Penalties.**—(1) Any person who carries on an agency for the supply of nurses without compliance with subsection (3) of section seven of this Act or without a licence under this Part of this Act shall be liable on summary conviction to a fine not exceeding fifty pounds and, if he continues so to do

after conviction, he shall be guilty of a further offence and shall be liable on summary conviction in respect thereof to a fine not exceeding five pounds for each day on which he so continues so to carry on the agency. [786]

(2) Any person who carries on an agency for the supply of nurses otherwise than in accordance with the conditions of his licence shall be liable on summary conviction to a fine not exceeding five pounds and, if the contravention in respect of which he was so convicted is continued after the conviction, shall be guilty of a further offence and liable in respect thereof on summary conviction to a fine not exceeding two pounds for each day on which the contravention is so continued. [787]

(3) Any person carrying on an agency for the supply of nurses who, in carrying on that agency, supplies any person in contravention of the provisions of subsection (1) of section seven of this Act, shall be liable on summary conviction to a fine not exceeding fifty pounds. [788]

(4) Any person who—

(a) makes or causes to be made or knowingly allows to be made any entry in a record required to be kept under this Act, which he knows to be false in a material particular, or for purposes connected with this Act produces or furnishes, or causes or knowingly allows to be produced or furnished any record or information which he knows to be false in a material particular; or

(b) for the purpose of obtaining a licence under this Part of this Act makes any statement which he knows to be false in a material particular or recklessly makes any statement which is false in a material particular,

shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment. [789]

(5) Any person who commits any contravention of this Part of this Act for which no special penalty is thereby provided shall be liable on summary conviction to a fine not exceeding ten pounds. [790]

(6) Where the person carrying on an agency for the supply of nurses is convicted under this Part of this Act of an offence committed in the carrying on of that agency on any premises, the court may (in lieu of or in addition to imposing any other penalty) make an order revoking the licence (if any) under this Part of this Act authorising the carrying on of that agency on those premises. [791]

(7) Where any offence against this Part of this Act by a corporation is proved to have been committed with the consent or connivance of any director, manager, secretary or other officer of the corporation, he, as well as the corporation, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. [792]

#### **11. Delegation of powers by county council to council of county district.—**

(1) A county council may, on the application of the council of any county district within the county, by agreement delegate to the council of that district, either with or without restrictions or conditions, any of the functions of the county council under the provisions of this Part of this Act. [793]

(2) If the council of a county district who have made an application under the preceding subsection are aggrieved by the refusal of the county council to delegate functions, or by any conditions or restrictions which the county council propose to impose, the council of the county district may make a representation to the Minister and the Minister after consultation with the county council, may by order direct the county council to delegate

to the council of the county district, either with or without restrictions or conditions, such functions under this Part of this Act as the Minister thinks proper, and the county council shall comply with any direction so given.

The Minister may at any time by order revoke an order previously made by him under this subsection. [794]

(3) Where any functions of a county council are delegated under this section to the council of a county district that council shall, as regards the functions so delegated, be deemed to be the licensing authority. [795]

(4) Any expenses incurred by the council of a county district in the discharge of functions delegated to them under this section shall up to an amount not exceeding such sums as may be fixed by the county council or on an appeal by the Minister be repaid to the council of the county district by the county council. [796]

(5) Any fees received under this Part of this Act by the council of a county district shall as the county court may direct either be paid to that council or be applied in reduction of the sum to be repaid under this section by that council to the council of the county district. [797]

This section corresponds to s. 194 of the Public Health Act, 1936 (29 Statutes 456), which reproduces with minor amendment s. 9 of the Nursing Homes Registration Act, 1927 (11 Statute 456).

"County district" means a non-county borough, urban district or rural district (see Public Health Act, 1936, s. 343; 29 Statutes 537).

**12. Application of Part II and of existing enactments.**—(1) The foregoing provisions of this Part of this Act shall not apply to any agency for the supply of nurses carried on in connection with any hospital maintained or controlled by a Government department or local authority or combination of local authorities, or by any body constituted by special Act of Parliament or incorporated by Royal Charter. [798]

(2) The provisions of section eighty-five of the Public Health Acts Amendment Act, 1907, and any provisions relating to employment agencies or servants registries contained in any local Act shall not apply to an agency for the supply of nurses, but this subsection shall not be taken as exempting from any such provisions any other business carried on in conjunction with an agency for the supply of nurses. [799]

S. 85 of the Public Health Acts Amendment Act, 1907 (13 Statutes 942), requires every person who carries on the business of a keeper of a female domestic servants' registry to register certain particulars with the local authority and to display at his business premises any bye-laws as to registries made by the authority. The section also confers powers of entry and inspection on the officers and agents of the authority.

**13. Supplemental.**—(1) In this Part of this Act, the following expressions have the meanings hereby respectively assigned to them, that is to say—

"agency for the supply of nurses" means the business (whether or not carried on for gain and whether or not carried on in conjunction with another business) of supplying persons to act as nurses, or of supplying persons to act as nurses and persons to act as midwives;

"certified midwife" means a person certified under the Midwives Acts, 1902 to 1936, and includes any person who, by virtue of an order made under Defence Regulations, is for the time being deemed, for the purposes of subsection (1) of section one of the Midwives Act, 1936, to be a certified midwife. [800]

(2) The Minister may make regulations for prescribing anything which under this Part of this Act is to be prescribed. [801]

(3) The expenses incurred under this Part of this Act by the Common Council of the City of London shall be defrayed out of the general rate. [802]

(4) This Part of this Act shall come into force on such date as the Minister may by order appoint, and different dates may be appointed for different purposes and for different provisions thereof and for different areas. [803]

For the Midwives Acts, 1902 to 1936, see 11 Statutes 729 *et seq.*, 744 *et seq.*, 783 *et seq.*; 29 *ibid.*, 264 *et seq.* Regulation 33 of the Defence (General) Regulations, 1939, empowers a local authority to make an Order exempting such women who have surrendered their certificates under s. 5 (1) of the Midwives Act, 1936 (29 Statutes 269), as may be named therein from the provisions of the Midwives Acts, 1902 to 1936, *supra*. The Regulation further provides that a woman named in any such order shall be deemed to be a certified midwife for the purposes of s. 1 (1) of the Midwives Act, 1936 (29 Statutes 265).

For the matters to be prescribed under this Part of the Act, see ss. 7 and 8, *ante*. As to procedure on the making of Regulations, see s. 16, *infra*.

### PART III

#### MISCELLANEOUS AND GENERAL

**14. Power to prescribe qualifications of teachers of nurses.**—The power of the Council to make rules under section three of the principal Act shall extend to the making of rules providing for the giving of certificates by or under the authority of the Council to persons who have undergone the prescribed training (being training carried out in an institution approved by the Council in that behalf) and, if the rules so provide, passed the prescribed examinations in the teaching of nursing. [804]

At present there is in certain training institutions a course of training for persons who are to be employed as teachers of nursing, who, when female, are commonly known as "sister tutors," but hitherto no standard has been laid down. The present section gives the General Nursing Council power, which previously it did not have, to make rules governing the training and qualification of these persons.

For s. 3 of the principal Act (*i.e.* the Nurses Registration Act, 1919), see 11 Statutes 749.

**15. Penalty for false representation that another is a registered or enrolled nurse.**—Any person who, knowing that some other person is not registered or enrolled, makes any statement or does any act calculated to suggest that that other person is registered or enrolled shall be liable on summary conviction to a fine not exceeding, in the case of a first offence, ten pounds, and, in the case of a second or any subsequent offence, fifty pounds. [805]

This section is designed to prevent the public being imposed on in nursing homes through the proprietor dressing up unqualified persons as nurses and thus giving the impression that they are qualified. It thus closes a gap which would otherwise have been left by s. 6, *supra*, which imposes penalties on persons who wrongfully describe themselves as nurses and s. 7, *supra*, which prohibits agencies from supplying unqualified persons.

**16. Procedure as to rules and regulations.**—(1) Rules made by the Council under section three of the principal Act or under Part I of this Act shall not come into operation unless and until they are approved by the Minister. [806]

(2) Every such rule so approved, and every regulation made under this Act by the Minister, shall be laid before each House of Parliament forthwith, and, if, within the next forty days, either House of Parliament resolves that the rule or regulation shall be annulled, the rule or regulation shall thereupon cease to have effect, without prejudice, however, to the validity of anything previously done thereunder or to the making of a new rule or regulation.

In reckoning the said period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days. [807]

(3) Subsections (3) and (4) of section three of the principal Act are hereby repealed, except as respects rules made before the passing of this Act. [808]

For s. 3 of the principal Act (*i.e.* the Nurses Registration Act, 1919), see 11 Statutes 749. Sub-s. (3), which is repealed by the present section, was in similar terms to sub-s. (1) of the



present section. Sub-s. (4), which is also repealed by the present section, provided that rules should be laid before Parliament but might be annulled or modified by Order in Council made on an address from either House presented within the twenty-one sitting days next following the date when such rule was laid before it.

**17. Amendment of section 2 (3) of principal Act.**—Subsection (3) of section two of the principal Act (which provides that a certificate under the seal of the Council, duly authenticated, stating that a person is, or was at any date, or is not, or was not at any date, duly registered under that Act shall be conclusive evidence in all courts of law of the fact stated in the certificate) shall have effect with the omission of the word “conclusive”.  
[809]

For s. 2 (3) of the principal Act (*i.e.* the Nurses Registration Act, 1910), see 11 Statutes 749. The object of the amendment is to bring this subsection into line with s. 1 (2) of the present Act, *ante*.

**18. List of certain nurses not registered or enrolled.**—(1) The Council shall form and keep a list, subject to and in accordance with the provisions of the Second Schedule to this Act, of such persons as are mentioned in the next succeeding subsection, and the provisions of that Schedule shall have effect in relation to the list. [810]

(2) The said persons are any persons, not being registered nurses or enrolled assistant nurses, who, within two years from the passing of this Act, apply, on a form provided for the purpose by the Council, for admission to the list, who hold certificates issued by institutions which appear to the Council to be satisfactory for the purposes of this provision stating that they completed before the beginning of July, nineteen hundred and twenty-five, a course of training in nursing in the institution, and who satisfy the Council that they are of good character and have adequate knowledge and experience of nursing. [811]

(3) Any person who—

- (a) being a person whose name is included in any part of the list, says or does anything implying that his name is included in some other part thereof; or
- (b) at any time with intent to deceive makes use of any certificate issued to him or to any other person as a person included in the list,

shall be liable on summary conviction to a fine not exceeding, in the case of a first offence, ten pounds, and, in the case of a second or subsequent offence, fifty pounds. [812]

(4) If any person wilfully makes, or causes to be made, any falsification in any matter relating to the list, he shall be guilty of a misdemeanour and shall, on conviction thereof, be liable to a fine not exceeding one hundred pounds. [813]

The object of this section is to prevent certain qualified nurses from losing their title of “nurse,” since it is assumed that by Regulations made under proviso (b) to s. 6 (1), *ante*, persons whose names appear on the list to be compiled pursuant to the present section will be allowed to use that title. The persons affected are those who would have been entitled to be registered as “existing nurses” when the register kept under s. 2 of the Nurses Registration Act, 1919 (11 Statutes 748), but who did not apply for registration during the period of grace allowed for that purpose, which expired in 1925, and have not since taken the additional training necessary in order to be placed on the register in the normal way by passing State examinations.

**19. Application of fees, and expenses of Council.**—Any sums received by the Council by way of fees under this Act shall be dealt with by the Council as if they had been received by way of fees under the principal Act, and any expenses incurred by the Council in carrying Parts I and III of this Act



into effect (including expenses in connection with examinations or prosecutions and any travelling expenses or subsistence allowances duly allowed to members of the Committee) shall be defrayed out of fees received by the Council. [814]

S. 4 of the Nurses Registration Act, 1919 (11 Statutes 750), provides that all expenses of the General Nursing Council in carrying that Act into effect shall be defrayed out of fees received. The section further provides that travelling and subsistence expenses paid to the members of the Council shall be calculated in accordance with directions of the Minister of Health, that the Council's accounts shall be audited in such manner as the Minister directs, and that copies thereof and of the auditors' report furnished to such persons as the Minister directs.

**20. Interpretation.**—In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively :—

“the roll” means the roll of assistant nurses established under Part I of this Act, and “enrol” and “enrolment” shall be construed accordingly ;

“the principal Act” means the Nurses Registration Act, 1919 ;

“nurse” means a nurse for the sick and “nursing” shall be construed accordingly ;

“register” means the register of nurses established under the principal Act, and “registered” shall be construed accordingly ;

“children's nurse” means a person whose avocation is that of caring for children ;

“the Minister” means the Minister of Health. [815]

For the Nurses Registration Act, 1919, see 11 Statutes 748.

**21. Short title, citation and extent.**—(1) This Act may be cited as the Nurses Act, 1943, and this Act and the principal Act may be cited together as the Nurses Act, 1919 and 1943. [816]

(2) This Act shall not extend to Scotland or Northern Ireland. [817]

## SCHEDULES

### FIRST SCHEDULE

#### Section 3.

##### CONSTITUTION AND PROCEEDINGS OF ASSISTANT NURSES COMMITTEE

1. The Committee shall consist of six persons appointed by the Council and five representatives of assistant nurses.

The persons appointed by the Council shall be members of the Council, but at least one of them shall not be a registered nurse.

2. On the first constitution of the Committee the five representatives of assistant nurses shall be appointed by the Minister after consultation with such persons and bodies as he thinks fit, being persons and bodies having special knowledge and experience of the work of assistant nurses.

3. The first members of the Committee shall hold office for three years from the first constitution of the Committee or such longer period as the Minister may from time to time determine.

4. After the expiration of the term of office of the first members of the Committee, four of the five representatives of assistant nurses shall be such persons, being registered nurses or enrolled assistant nurses, as may be elected in accordance with the prescribed scheme and in the prescribed manner by persons enrolled on the date of the election and the remaining representative of assistant nurses shall be appointed by the Minister.

5. Any member of the Committee other than the first members thereof shall hold office for a term of five years.

6. If the place of a member of the Committee becomes vacant before the expiration of his term of office, whether by death, resignation or otherwise, the vacancy shall be filled, if the member was appointed by the Council, by the Council, and, if the member represented assistant nurses, by the Minister.

Any person appointed to fill a casual vacancy shall hold office only so long as the member in whose stead he is appointed would have held office.

7. Any person ceasing to be a member of the Committee shall be eligible for re-appointment or re-election.

8. The powers of the Committee may be exercised notwithstanding any vacancy in their number.

9. The chairman of the Committee shall be such one of the members of the Committee, being a member appointed by the Council, as may be selected by the Committee.

10. The quorum of the Committee shall be four.

11. The Committee may, with the approval of the Council, make standing orders regulating the summoning of meetings of the Committee and the proceedings of the Committee. [818]

## SECOND SCHEDULE

### Section 18.

#### LIST OF NURSES NOT REGISTERED OR ENROLLED

1. Every person admitted to the list shall be granted a certificate of admission thereto by the Council.

2. A certificate under the seal of the Council duly authenticated stating that any person is or was at any date, or is not or was not at any date, included in the list shall be evidence in all courts of law of the fact stated in the certificate.

3. The list shall be printed and published as an appendix to the register, and shall (except for such modifications as may be necessary in the form of any documents) be kept in respect of the following matters in the same way as the register, that is to say—

- (a) the parts into which it is divided ;
- (b) the payment and amount of any fees on an application for admission or for any certificate issued by the Council ;
- (c) the procedure, and the payment and amount of any fees, for the retention or re-inclusion of a name in the list ;
- (d) the circumstances in which a name may be removed from the list and the procedure for the removal,

and the removal of any name from the list shall be subject to the same right of appeal as in the case of the register.

4. If provision is made by Parliament, or by the Parliament of Northern Ireland, for the establishment of a similar list in Scotland or Northern Ireland, any person included in any part of that list shall be entitled to be admitted to the corresponding part of the list under this Act on production of similar evidence and payment of the same fees as are required in the case of a nurse registered in Scotland or Northern Ireland who seeks admission to the register.

5. In this Schedule reference to the list shall, unless the context otherwise requires, include references to a part of the list. [819]

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## ORDERS, CIRCULARS AND MEMORANDA

### THE NURSES AND MIDWIVES (REGISTRATION FOR EMPLOYMENT) ORDER, 1943

*S. R. & O., 1943, No. 511*

*March 30, 1943*

The Minister of Labour and National Service (hereinafter referred to as "the Minister") by virtue of the powers conferred on him by Regulation 58A of the Defence (General) Regulations, 1939, hereby makes the following Order :—

1.—(1) This Order may be cited as the Nurses and Midwives (Registration for Employment) Order, 1943, and shall come into force on the date hereof.

(2) In this Order, the expression "local office" means an employment exchange or other office appointed by the Minister as a local office for the purposes of this Order. [820]

2.—(1) Subject to the provisions of paragraph (2) of this Article, this Order applies to all British subjects, of either sex, born after 31st March, 1883, and before 1st April, 1926, who fall within any of the classes or descriptions of persons specified in the First Schedule hereto.

(2) This Order shall not apply to any person of either sex who belongs to any of the classes of persons specified in paragraphs (b) to (g) inclusive of subsection (1) of section 11 of the National Service (Armed Forces) Act, 1939, as amended in their application to women by subsection (2) of section 3 of the National Service (No. 2) Act, 1941 (which paragraphs, as so amended specify certain classes of persons not liable to be called up for service in the Armed Forces of the Crown), except to such of those persons as are members of the Home Guard or Auxiliary Coastguard, officers holding unpaid commissions in the Royal Naval Volunteer Reserve (Sea Cadet Corps), officers of the Territorial Army Reserve of Officers but commissioned for service with the Army Cadet Force and commissioned officers of the Training Branch of the Royal Air Force Volunteer Reserve. [821]

3.—(1) Every person to whom this Order applies shall, on such day or within such period as the Minister may, by public notice or otherwise, direct, attend at a local office or such other place as may be so notified and register such of the particulars about himself specified in the form set out in the Second Schedule hereto or in such other form approved by the Minister substantially to the like effect as may be required; provided that any person who—

(a) lives more than six miles from the nearest local office; or

(b) is unable to attend at a local office owing to the times during which he is at work; or

(c) is for any reason unable to complete the form at the local office

may register as aforesaid by obtaining from a local office the said form and posting it duly completed in such respects as may be required to the local office from which he obtains the form not later than the 17th day of April, 1943.

(2) If the Minister by public notice or otherwise so requires, any person who has registered particulars about himself in accordance with the foregoing provisions of this Article shall from time to time furnish such further particulars about himself at such times, in such manner and at such places as the Minister may require. [822]

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## FIRST SCHEDULE

*Persons required to register particulars*

1. All nurses whose names appear on the General or Supplementary State Registers of the General Nursing Council for England and Wales and the General Nursing Council for Scotland.

2. Nurses not State Registered but who hold a certificate of at least three years' training before the 30th June, 1925, in a Training School approved by the General Nursing Council for England and Wales, or before the 30th September, 1925, in a Training School approved by the General Nursing Council for Scotland.

3. State Certified midwives whether practising or not and women whose names have been but are no longer on the Roll of Midwives except

(i) those who were compulsorily retired by the local supervising authority under Section 5 (2) of the Midwives Act, 1936, or by the Local Authority under Section 4 (2) of the Maternity Services (Scotland) Act, 1937, on the ground of age or infirmity ; and

(ii) those whose names have been removed from the Roll by direction of the Central Midwives Board, or the Central Midwives Board for Scotland acting under their Penal powers.

4. Student nurses and pupil midwives.

5. Persons who are or who have been nursing auxiliaries in the Civil Nursing Reserve, or who are or who have been members of Voluntary Aid Detachments or nursing members of the British Red Cross Society, St. John Ambulance Brigade or St. Andrew's Ambulance Association who have had not less than six months' full time experience in nursing duties, whether or not they are now actually engaged in such duties.

6. Nursery nurses who hold a nursery nursing certificate after training at

(i) a Nursery Training College ; or

(ii) a Nursery approved by the National Society of Children's Nurseries.

7. Other persons who have had at least one full year of experience in the nursing of sick persons in a hospital or similar institution.

8. All persons who on the coming into force of this Order are employed in, or engaged for the purpose of, nursing sick or injured persons. [823]

## SECOND SCHEDULE

*Nurses and Midwives (Registration) Order, 1943*

1. Surname (Block caps)	Christian Names
2. *Single Married Widow(er)	3. M F
4. National Regn. Identity No.	5. Date of Birth
6. Address (in full)	7. No. of your children under 14 living with you.
Tel. No.	

\* Delete whichever is inapplicable.

8. (a) Whether in employment \*Yes/No

(b) If so, is work \*Paid/unpaid

\*full time/part time

\*resident/non-resident

(c) Name and address of \*present/last employer, or details, if working on own account

(d) Dates : From

to

(e) Employed as

(f) If employed in industry, is undertaking scheduled under Essential Work Order \*Yes/No

<p>9. Whether free to work anywhere in Great Britain</p> <p>*Yes/No</p>	<p>10. Details of any disability which limits scope of employment</p>
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#### 11. Nurse

(a) \*Student Nurse/other trainee/Post Certificate trainee

Date training started

Examn. for which preparing

(b) \*State registered Nurse

(i) Register to which admitted	(ii) Date of admission	(iii) No. on Register

(iv) Additional certificates \*D.N./Health Visitor/Nurse Teacher/Sister Tutor/R.M.P.A./T.B. Assn.

(v) Any other qualification(s)  
(excluding midwifery)

(c) \*Other nurse/Assistant Nurse/Nursing Auxiliary

Length of experience

Dates of training (if any)

Certificates held (if any)

## 12. Midwife (or other person with midwifery qualifications)

(a) \*Pupil Midwife

Date training started

(b) \*C.M.B., First Certificate

Date of award

(c) \*State Certified Midwife

No. on Roll

Date of admission

Length of experience in practice of midwifery (give dates)

(d) \*Midwife Teachers' Certificate

Date

## 13. Where \*training/trained

## 14. Length of experience (if any) in the following types of nursing :—

(a) Fever	(b) T.B.
(c) Mental	(d) District

## 15. Nationality

	At Birth	Now (if parent is dead, parents' nationality at time of death)	Place of Birth
Yourself ..			
Father ..			
Mother ..			
*Husband ..			

\* Delete whichever is inapplicable.

16. Knowledge of Languages (if any). Indicate degree of proficiency in each

17. Knowledge of nursing in foreign countries: nature of knowledge, and how acquired

18. Particulars of any previous service in Nursing Services of H.M. Forces, or whether at any time an unsuccessful application has been made to join those Services

19. Particulars of general education

20. Brief outline of career and experience

Dates		Name and short address of employer. (Type of organisation to be indicated)	Post held and salary received
From	To		

21.

22. For Official Use.



## Circular 2821

*All Local Authorities.  
All Voluntary Hospitals.*

MINISTRY OF HEALTH,  
WHITEHALL, LONDON, S.W.1.

27th May, 1943.

SIR,

### NURSES ACT, 1943

1. I am directed by the Minister of Health to state that the Nurses Act, 1943, received the Royal Assent on Thursday, the 22nd April. The Act generally gives effect to recommendations made by the Inter-Departmental Committee on Nursing Services (paragraphs 158 to 168 of their Interim Report published January, 1939) and deals with certain incidental matters. [825]

2. Voluntary Hospitals and Local Authorities may wish to have the following notes on the principal provisions in the Act and on the action which is being taken, or is contemplated. [826]

3. The Act consists of three parts.

#### PART I

(Sections 1-6)

##### *Enrolment of Assistant Nurses*

Sections 1-5 of the Act provide for the formation by the General Nursing Council for England and Wales of a Roll of Assistant Nurses. The provisions are based generally on the provisions relating to the register kept by the Council under the Nurses Registration Act, 1919. The General Nursing Council will make rules, which will be subject to the Minister's approval, for regulating the formation, maintenance and publication of the Roll, the conditions of admission to the Roll, the conduct of any examinations which may be prescribed, and disciplinary procedure. The rules will contain provisions relating to the admission without examination of suitably qualified existing Assistant Nurses to the Roll. [827]

4. Section 3 provides for the formation of an Assistant Nurses Committee of the General Nursing Council. The constitution of the Committee is laid down in the First Schedule. It will consist of six persons appointed by the Council from among their own members (of whom at least one must not be a Registered Nurse) and of five representatives of Assistant Nurses. On its first constitution, the five representatives of Assistant Nurses will be appointed by the Minister after consultation with persons and bodies having special knowledge and experience of the work of Assistant Nurses. After the expiration of the term of office of the first members of the Committee, four of the five representatives of Assistant Nurses will be elected by persons enrolled as Assistant Nurses, and the remaining representative will be appointed by the Minister; the four elected members will be either registered nurses or enrolled Assistant Nurses. [828]

5. All matters wholly or mainly concerning Assistant Nurses stand referred by the Act to the Committee, and any other matter may be referred by the General Nursing Council to the Committee. Questions of removal of individual Assistant Nurses from the Roll, or their restoration to the Roll, and any other matters which the Committee are expressly authorised by the General Nursing Council to deal with in this way, will be dealt with finally by the Committee, on the Council's behalf. On other matters which stand referred to the Committee, or which are referred by the Council to the Committee, the Council must receive and consider a report from the Assistant Nurses Committee before taking any action, except in case of urgency. [829]

6. Section 6 contains provisions intended to protect both the nursing profession and the general public from persons without any nursing qualifications who describe themselves as nurses. Subsection (1) of this section provides that, as from such date as the Minister may by order direct, persons other than State Registered nurses, or duly enrolled Assistant Nurses, will commit an offence if they take or use the name or title of "nurse" either alone or in combination with any other words or letters. An exception is, however, made in favour of children's nurses, who will be allowed to continue to use the name or title of "nurse" except in circumstances or in a context which suggest that they are something other than children's nurses. The Minister is also given power by proviso (b) to the sub-section to make regulations authorising the use by other classes of persons of the word "nurse", either generally or with qualifications. Proceedings for offences under these provisions may not be instituted except with the Minister's consent. [830]

7. Until progress is made with the formation of the Assistant Nurses Roll, the Minister does not propose to bring into effect the restriction on the use of the title "nurse" under section 6 (1). Meantime, he proposes to consider the scope of the regulations which he will make under proviso (b) to the sub-section, in consultation with the appropriate bodies. [831]

## PART II

(Sections 7-13)

### *Agencies for the supply of nurses*

8. Part II of the Act regulates the conduct of agencies for the supply of nurses. [832]

9. Section 7 provides that such agencies must supply only registered nurses, duly enrolled Assistant Nurses, certified midwives, or such other classes of persons as may be prescribed by the Minister; that they must inform the person to whom a nurse or midwife is being supplied of her qualifications; that the selection of the nurse or midwife to be supplied in each particular case must be made by, or under the supervision of a registered nurse, or a registered medical practitioner; and that the agencies must keep such records as are prescribed by the Minister. [833]

10. Section 8 provides for the licensing of all such agencies and deals with the licensing procedure. The licensing authority will be in the City of London, the Common Council, in the rest of the administrative County of London the London County Council and elsewhere the County or County Borough Council. Sections 9 and 10 deal with enforcement and penalties. Section 11 provides for the delegation of their functions by County Councils to County District Councils, and empowers the Minister, on the application of a County District Council, to direct a County Council to delegate their functions. [834]

11. Section 12 (1) exempts from the provisions of this Part of the Act any agency for the supply of nurses carried on in connection with any hospital maintained or controlled by a Government Department or local authority or combination of local authorities, or by any body constituted by special Act of Parliament or incorporated by Royal Charter. [835]

12. Section 12 (2) repeals the existing Local Acts relating to the employment agencies, so far as they relate to agencies for the supply of nurses. [836]

13. None of the provisions of this Part of the Act come into operation until the Minister by Order so appoints; and the Minister is given power to appoint different dates for different purposes and for different provisions

and for different areas. The Minister does not consider that it would be practicable to bring any of the provisions of this Part of the Act into operation until the Roll of Assistant Nurses is in being. When he decides to bring them into effect, he will issue a further communication to local authorities, explaining the provisions in more detail and giving guidance as to the action to be taken. [837]

### PART III

(Sections 14-21)

#### *Miscellaneous and General*

14. Part III of the Act, which comes into effect forthwith, deals with a number of incidental matters. [838]

15. Section 15 gives the General Nursing Council power to make rules relating to the qualifications of teachers of nurses, frequently referred to as Sister Tutors. [839]

16. Section 18 and the Second Schedule make provision for those trained nurses who might have applied for registration as existing nurses or as nurses with intermediate qualifications during the period of grace given under the Nurses Registration Act, 1919, but who did not do so. The section provides that the General Nursing Council shall form and keep a list of persons who hold certificates issued by institutions which appear to the Council to be satisfactory for the purposes of this provision stating that they have completed before the 1st July, 1925, a course of training in nursing, and who satisfy the Council that they are of good character and have adequate knowledge and experience of nursing. Application for admission to the list must be made to the Registrar of the General Nursing Council within two years of the passing of the Act on a form provided by the Council. The Second Schedule sets out some of the detailed provisions relating to the list. The list will be printed and published as an Appendix to the register and will be divided into the same parts as the register. The general procedure for admission to and removal from the list will be the same as that relating to the register, subject to the necessary modifications in the form of any documents. The Minister understands that the General Nursing Council are taking the necessary action to give effect to these provisions. [840]

17. A copy of this Circular is being sent to the Medical Officer of Health. [841]

I am, Sir, etc.

\* \* \* \* \*

The Town Clerk.

The Clerk of the Council.

The Secretary or House Governor.

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Circular 2888

*To the Authorities of all Hospitals approved as general or fever nursing training schools by the General Nursing Council for England and Wales, including those approved as such in affiliation or association with other training schools.*

*To other Local Authorities and Voluntary Hospitals for information.*

MINISTRY OF HEALTH,  
WHITEHALL,  
LONDON, S.W.1.

20th November, 1943.

SIR,

## TRAINING OF STUDENT NURSES

### (a) Training in Tuberculosis Nursing

1. I am directed by the Minister of Health to call the attention of the Authorities of all Hospitals which are approved by the General Nursing Council for England and Wales as training schools to the following statement recently issued by the General Nursing Council with reference to the existing arrangements for the recognition of training in Sanatoria and other Tuberculosis institutions :—

“ In view of the existing shortage of nursing staff in sanatoria the General Nursing Council for England and Wales wish to draw the attention of the authorities concerned to the following arrangements which are in existence for the recognition of training in such institutions.

The Council regard the experience to be gained in sanatoria as of great value to a nurse and are of the opinion that, if these schemes were made more widely known to nurses and were acted upon more freely by the authorities, the sanatoria would benefit by an increase in staff and nurses in training would gain experience which would be to their great advantage.

### (1) General Training

(a) The General Nursing Council permit nurses in training in complete general hospitals to be seconded to sanatoria for a period not exceeding three months.

(b) Schemes of affiliation may be arranged between general hospitals and special hospitals including sanatoria. Under these schemes a period of two years is spent at the special hospital in training for the preliminary State examination, which is passed before entry to the general hospital, where a further two years' training is undergone for admission to the final examination for the General Part of the Register.

(c) The Council are prepared to consider schemes submitted which afford comprehensive training, provided that they include not less than two years in a complete general training school.

### (2) Fever Training

The Council permit nurses in training for admission to the Supplementary Part of the Register for Fever Nurses to spend a portion of the time (usually three to six months) in a sanatorium or in the tuberculosis wards attached to the fever hospital.

The Council are prepared to consider any proposals for combined training.” [842]

2. The Minister would be glad if Authorities of Hospitals where the student Nurses do not already undertake any part of their training in a tuberculosis institution would consider the desirability of making arrange-

ments to this end on the lines indicated in the statement issued by the General Nursing Council. [843]

3. The Minister has already invited the authorities of tuberculosis institutions equipped with facilities for training who have found difficulty in making arrangements on the lines suggested at the General Nursing Council, to communicate with this office giving an account of the difficulties they have met. [844]

(b) **Nursing Auxiliaries and V.A.Ds. who become Student Nurses**

4. A suggestion has been made that Nursing Auxiliaries and V.A.Ds. who become student Nurses and who, prior to entering training, have had good hospital experience during the present war, might have some part of their period of training remitted. [845]

5. This question has been considered by the General Nursing Council following representations from the National Advisory Council for the Recruitment and Distribution of Nurses of the Ministry of Labour and National Service. The General Nursing Council have stated that, in their view, it would be undesirable to shorten the length of training prescribed for student Nurses in the case of Nursing Auxiliaries and V.A.Ds. They have, however, suggested that the Authorities of general training schools in which the student nurse's contract is of four years' duration might consider making some concession of time to suitable Auxiliaries and V.A.Ds. in the last year, after they have become State Registered; and the Minister would be grateful if the authorities concerned would give this suggestion their consideration. [846]

6. A copy of this Circular is being sent to the Medical Officer of Health. [847]

I am, Sir, etc.

\* \* \* \*

The Clerk of the Council.

The Town Clerk.

The Clerk to the Joint Board.

The Secretary or House Governor.

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## HOUSING

CASES :—

Summers v. Salford Co rpn., [1943] 1 All E. R. 68—H. L. — — — — PAGE 311

## CASES

*Landlord and Tenant—Repairs—Statutory obligation—Extent of obligation—Broken sash-cord—“In all respects reasonably fit for human habitation”—Housing Act, 1936 (c. 51), ss. 2, 188 (4).*

The appellant was the tenant of the respondent corporation of premises to which the Housing Act, 1936, s. 2, applied, so that the corporation impliedly undertook that during the tenancy the premises would be kept in all respects reasonably fit for human habitation. In February, 1940, or March, 1940, the appellant notified the corporation that one sash-cord of one of the windows in the premises was broken. On April 3, 1940, the other sash-cord broke

while she was cleaning the window and she was injured. She claimed damages on the ground that the respondents had broken the covenant implied in her tenancy agreement by the Housing Act, 1936, s. 2 :—

*Held* : since the only window in one of the two bedrooms in the house could not be opened or could only be opened at the risk of injury to the person opening it, the house was not in all respects reasonably fit for human habitation. The appellant was, therefore, entitled to damages in respect of the injuries sustained.—*SUMMERS v. SALFORD CORPN.*, [1943] A. C. 283 ; [1943] 1 All E. R. 68 ; 112 L. J. (K. B.) 65 ; 168 L. T. 97 ; 107 J. P. 35 ; 59 T. L. R. 78 ; 86 Sol. Jo. 391 ; 41 L. G. R. 1, H. L. [848]

## INCOME TAX

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## STATUTES

### THE FINANCE ACT, 1943

(6 & 7 Geo. 6, c. 28)

[22nd July 1943]

\* \* \* \* \*

**19. Post-war credits to members of forces and special constables, etc.—**  
The sums known as post-war credits paid either—

(a) under any Order in Council, Royal Warrant or King's Order to members of the armed forces of the Crown or of the Voluntary Aid Detachments ; or

(b) under arrangements certified by the Treasury to be arrangements providing similar benefits to—

- (i) special constables appointed under the Special Constables Act, 1831, or section one hundred and ninety-six of the Municipal Corporations Act, 1882, or under section ninety-six of the Burgh Police (Scotland) Act, 1892, as amended or extended by any subsequent enactment or any similar provision contained in a local Act, or members of the Police War Reserve, the Women's Auxiliary Police Corps or the Police Auxiliary Messenger Service ; or
- (ii) members of the National Fire Service ; or
- (iii) members of the Civil Defence Reserve or the civil defence ambulance, decontamination, first-aid party, first-aid post, messenger, report and control, rescue or wardens' service ; or
- (iv) members of the fireguard service ; or
- (v) members of the Royal Observer Corps ; or
- (vi) persons in Northern Ireland similar to any of the persons specified in any of the preceding sub-graphs,

shall not be regarded as income for any of the purposes of the Income Tax Acts for any year of assessment, including a year of assessment before the year 1943-44. [849]

The post-war income tax credits (for which provision was made in s. 7 of the Finance Act, 1941) (see 34 Statutes 105), being refunds of income tax, will not be taxable. The post-war credits to which this section refers have no connection with income tax, but are in effect a proportion of the allowances, wages or salaries, payment of which is deferred in the national interest until after the war. Such deferred payments are by this section exempted from income tax.

\* \* \* \* \*

## CASES

*Income Tax—Local authority—Retention of tax deducted from interest payment—Separate undertakings—Whether excess of taxed income in one account can be set off against excess of interest payments in another account—Income Tax Act, 1918 (c. 40), All Schedules Rules, rr. 19, 21—Local Government Act, 1933 (c. 51), ss. 185, 194—South Shields Corporation Act, 1935 (c. xcvi), ss. 112-116.*

By the South Shields Corporation Act, 1935, s. 112, all the receipts of the borough were carried into the general rate fund, out of which all its obligations were discharged. S. 113 of that Act required the corporation to keep separate accounts for its various undertakings, and ss. 114 and 115 of the same Act enabled the corporation to apply from the rate fund to specified purposes in connection with its undertakings a sum not exceeding the excess revenue, if any, earned by that undertaking. S. 116 of the Act repealed the existing statutory provisions governing the application of the revenues of the undertakings and the method of keeping their accounts. The accounts of the corporation for the year 1935-36 showed that, in the case of the electricity and transport undertaking, the total income exceeded the amount of the interest payments, and, in the case of the housing account, the taxed income was considerably less than the interest payments. Upon making the interest payments, income tax had been deducted and retained by the corporation and, in so far as the interest payments had been made out of the taxed income, the corporation would not have to account to the Inland Revenue for the sum retained. The corporation contended that, in the case of the housing account, in so far as the taxed income of that account was insufficient to meet the interest payments in respect of that account, it was entitled to say that such interest payments were made out of the excess of taxed income in the electricity and transport accounts, and supported this contention by the fact that all receipts had to be brought into the general rate fund, from which alone payments could be made :—

*Held* : (i) upon the proper interpretation of All Schedules Rules, rr. 19, 21, where annual payments are made out of profits and gains brought into charge, the payer may retain the tax so long as the amount retained does not exceed the amount of tax payable by him in that year. Any excess he must account for to the Crown ;

(ii) the effect of s. 116 of the 1935 Act was to abolish all previously existing statutory regulations and restrictions as to the application of the surplus revenues of the undertakings. The obligations placed upon the corporation by the 1935 Act to keep separate accounts of each undertaking imposed no restriction on the corporation as to the way in which it was to deal with the profits of each undertaking, and there were no special circumstances in the relevant sections of the 1935 Act which would prevent it from claiming that the interest must be treated as having been paid *pro tanto* out of its taxed



income. Therefore the contention that the interest payments in respect of the housing account, in so far as the taxed income of that account was insufficient to meet them, were paid out of the excess of the taxed income of the electricity and transport accounts up to the amount of that excess, was a proper one.

*Decision of the Court of Appeal* ([1942] 2 All E. R. 39) *affirmed*.—ALLCHIN *v.* COULTHARD [1943] A. C. 607; [1943] 2 All E. R. 352; 112 L. J. (K. B.) 539; 107 J. P. 191; 59 T. L. R. 396; 87 Sol. Jo. 309; 41 L. G. R. 207, H. L. [850]

## INFANTS, CHILDREN AND YOUNG PERSONS

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## ORDERS, CIRCULARS AND MEMORANDA

### THE CHILDREN AND YOUNG PERSONS (CONTRIBUTIONS BY LOCAL AUTHORITIES) REGULATIONS, 1943

*S. R. & O., 1943, No. 52*

*January 11, 1943*

1. In pursuance of the powers conferred upon me by section 90 of the Children and Young Persons Act, 1933, I, the Right Honourable Herbert Morrison, one of His Majesty's Principal Secretaries of State, hereby prescribe contributions at the rate of twenty-three shillings a week as the contributions to be made by the local authority named in an approved school order to the expenses of the managers of an approved school throughout the time during which the person to whom the order relates is under the care of the said managers and not out on licence or under supervision. [851]

2. These Regulations shall not apply to a local authority named in an approved school order where the managers having under their care the person to whom the order relates are the local authority, whether as local education authority for elementary education or otherwise, or are a joint committee upon which the local authority, whether as local education authority for elementary education or otherwise, are represented. [852]

3. The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [853]

- 4.—(i) These Regulations may be cited as the Children and Young Persons (Contributions by Local Authorities) Regulations, 1943.
- (ii) These Regulations shall come into force on the 1st April, 1943.
- (iii) The Children and Young Persons (Contributions by Local Authorities) Regulations, 1941, are hereby revoked. [854]

\* \* \* \* \*

## THE ADOPTION OF CHILDREN (REGULATION) ACT, 1939 (COMMENCEMENT) ORDER, 1943

*S. R. & O., 1943, No. 378*

*March 11, 1943*

\* \* \* \* \*

Whereas by the Postponement of Enactments (Miscellaneous Provisions) Act, 1939, it is provided that, with the exception of such provisions as are specified in the Schedule to that Act, the coming into operation of the Adoption of Children (Regulation) Act, 1939, shall be postponed until such date as His Majesty may by Order in Council appoint :

Now, therefore, His Majesty is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. The first day of June, nineteen hundred and forty-three, is hereby appointed as the date on which the Adoption of Children (Regulation) Act, 1939, except such provisions thereof as are already in force, shall come into operation. [855]

2. This Order may be cited as the Adoption of Children (Regulation) Act, 1939 (Commencement) Order, 1943. [856]

\* \* \* \* \*

## ORDER MADE BY THE SECRETARY OF STATE, FIXING THE APPOINTED DAY FOR THE PURPOSE OF THE ADOPTION OF CHILDREN (REGULATION) ACT, 1939

*S. R. & O., 1943, No. 412*

*March 15, 1943*

In pursuance of subsection (2) of section sixteen of the Adoption of Children (Regulation) Act, 1939, I hereby appoint the first day of June, 1943, as the appointed day. [857]

\* \* \* \* \*

Home Office,  
Whitehall.

15th March, 1943.

## Circular 2790.

*To Welfare Authorities (England)  
and the London County Council.*

MINISTRY OF HEALTH,  
WHITEHALL,  
LONDON, S.W.1.

18th March, 1943.

SIR,

1. I am directed by the Minister of Health to refer to Circular 1940, of 30th December, 1939, and to call your attention to the fact that an Order in Council has now been made, appointing 1st June, 1943, as the date on which the Adoption of Children (Regulation) Act, 1939, shall come into operation. [858]

2. Evidence has accumulated showing the special need for the provisions of the Act in war-time, and it has been agreed that in spite of the additional work which may be imposed upon the responsible authorities the operation of the Act should be no longer delayed. The Minister greatly hopes that it may be possible for Welfare Authorities to give the necessary supervision to the additional number of children who will be brought under their care. [859]

3. Section 7 of the Act is the section with which Welfare Authorities are concerned. It makes it the duty of any person, other than the child's parent or guardian or the person with whom the child is placed, who participates in the arrangements for the placing of the child to notify in writing the Welfare Authority of the area in which the child is to be placed. [860]

4. Subsection (5) of Section 7 of the Act imposes the duty on the adopter of notifying any change of residence, and subsection (6) gives power to remove on the same grounds as those contained in the child life protection sections of the Public Health Acts. Subsection (7) makes it clear that the Visitor should seek out any children in respect of whom a notice should have been given, whether it has actually been given or not. For children placed by their own parents and not coming within the section Health Visitors must, as in the past, exercise such supervision as is possible without compulsory power. It is important to note that subsection (11) states that a person shall be deemed to participate in the making of arrangements for the placing of a child if he enters into, or makes any agreement or arrangement for, or for facilitating, the placing of the child or if he initiates or takes part in any negotiations for that purpose. [861]

5. In order to assist Registration Authorities in carrying out their duties under the Act, the Home Secretary asks that where the Welfare Authority is not also the Registration Authority the former will report to the latter any case in which it may appear that arrangements for adoption are being made by a body of persons not being a registered adoption society. Similarly, if in watching for advertisements which contravene Section 215 of the Public Health Act, 1936, a Welfare Authority should find advertisements offering children for adoption or otherwise contravening Section 10 of the present Act they should inform the appropriate Registration Authority. Such co-operation is highly desirable and, indeed, necessary if the Act is to be made fully useful. [862]

6. The following statistics should be supplied with those referring to child life protection. In future years they will be added to the forms when issued: particulars should therefore be kept from the date of operation of the Act:—

(a) No. of persons who gave notice under Section 7 (3) during the  
year .....

- (b) Total no. of children "adopted" under the section during the year .....
- (c) No. of such children :—
- (i) under supervision at the end of the year .....
- (ii) who died during the year.....
- (iii) on whom inquests were held during the year.....
- (d) Particulars of any proceedings taken during the year .....

[863]

7. A copy of this Circular is being sent to the Medical Officer of Health.  
[864]

I am, Sir, etc.

\* \* \* \* \*

## THE ADOPTION OF CHILDREN (TRANSFER ABROAD) RULES, 1943

*S. R. & O.*, 1943, No. 812/L.17

June 1, 1943

I, John Viscount Simon, Lord High Chancellor of Great Britain, in pursuance of subsection (5) of section eleven of the Adoption of Children (Regulation) Act, 1939 (hereinafter referred to as "the Act"), and of any other power enabling me in this behalf, do hereby make the following Rules :—

1. An application for a licence under section eleven of the Act authorising the care and possession of a child, being a British subject, for whose adoption arrangements have been made to be transferred to a British subject resident abroad may be made by a parent or guardian of the child or by any other person or body concerned in the making of the arrangements for the adoption of the child, and, if that body is an adoption society, the application may be made by any person authorised by the society in that behalf. [865]

2. Notice of the application shall be given in the form numbered 1 in the Schedule to these Rules to a police magistrate, and the notice shall be delivered or sent by registered post addressed to the chief clerk of the metropolitan police court in Bow Street. [866]

3. A police magistrate shall cause a copy of the notice to be sent to a British consular officer or to some other person abroad who appears to the magistrate to be trustworthy, and shall request the officer or person to report whether the person to whom the care and possession of the child is proposed to be transferred is a suitable person to be entrusted therewith. [867]

4. Upon receipt of a report from the British consular officer or other person referred to in the last preceding Rule, a police magistrate shall fix a time for the hearing of the application and shall send to the applicant a notice in the form numbered 2 in the Schedule to these Rules. [868]

5. A copy of the notices referred to in Rules 2 and 4 of these Rules shall be served by the applicant upon the child and upon every person or body who is a parent or guardian of the child, or who has the actual custody of the child, or who is liable to contribute to the support of the child :

Provided that a police magistrate may dispense with the service required by this Rule of a copy of the notices—

- (a) upon any person other than the child, if he is satisfied that that person cannot be found, and
- (b) upon the child, if he thinks fit having regard to the age and understanding of the child. [869]

6. A police magistrate may issue a notice in the form numbered 3 in the Schedule to these Rules requiring any person or body who has the actual custody of the child to produce the child at the hearing of the application and the applicant (unless he himself has the actual custody of the child) shall serve the notice upon that person or body. [870]

7.—(1) The service of any document under Rule 5 or 6 of these Rules may be effected by delivering it to the person to be served or by sending it by registered post to him at his last known or usual place of abode :

Provided that where the document is to be served upon a body, it shall be left at or sent by registered post to the registered office of that body, or, if there is no registered office, the principal place where the body transacts or carries on its business.

(2) The service of any such document as aforesaid may be proved by the production of a declaration in the form numbered 4 in the Schedule to these Rules or in a form to the like effect purporting to be made before a justice of the peace. [871]

8.—(1) The persons or bodies upon whom a copy of the notices referred to in Rule 5 of these Rules is required by that Rule to be served may attend at the hearing of the application and shall be entitled to be heard.

(2) The consent of a person or body to the making of the application, if given in writing, may be proved by the production of—

(a) a declaration in the form numbered 5 in the Schedule to these Rules or in a form to the like effect purporting to be made and signed by that person or, in the case of a body, by a person authorised by that body in that behalf before a justice of the peace ; or

(b) in the case of a person serving out of the United Kingdom in His Majesty's naval, military or air forces, a declaration in such form as aforesaid purporting to be made and signed by that person before his commanding officer ; or

(c) in the case of a person held by the enemy as a prisoner of war, a declaration in such form as aforesaid purporting to be made and signed by that person before two other persons so held who have their ordinary residences in the United Kingdom.

(3) In this Rule the following expressions have the meanings hereby respectively assigned to them, that is to say :—

“ commanding officer ” means—

(a) in relation to a person serving in His Majesty's naval forces, the officer commanding the ship to which the person belongs ;

(b) in relation to a person serving in His Majesty's military forces, the officer, not being an officer below the rank of Major, commanding the unit or establishment in which the person is serving ;

(c) in relation to a person serving in His Majesty's air forces, the officer, not being an officer below the rank of Squadron Leader, commanding the unit or establishment in which the person is serving ; and

“ enemy ” means any State, or Sovereign of a State, at war with His Majesty. [872]

9. The police magistrate hearing the application may require any person attending for the purpose of making or opposing the application or giving evidence in the matter to be sworn. [873]

10. Any licence granted under section eleven of the Act shall be in the form numbered 6 in the Schedule to these Rules. [874]

11. The Interpretation Act, 1889, shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament. [875]

12. These Rules may be cited as the Adoption of Children (Transfer Abroad) Rules, 1943. [876]

\* \* \* \* \*

## SCHEDULE

### 1

*Form of notice of an application for a licence under section 11 of the Adoption of Children (Regulation) Act, 1939. (Rule 2.)*

To the Chief Magistrate of the Metropolitan Police Courts or one of the Magistrates of the Metropolitan Police Court in Bow Street :

I hereby give notice that I intend to apply for a licence under section 11 of the Adoption of Children (Regulation) Act, 1939, in respect of a male [female] child named \_\_\_\_\_, aged \_\_\_\_\_ years, born on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

The child is a British subject and is the subject of arrangements for his [her] adoption as follows (*here set out the arrangements*).

\*The father of the child is \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_ subject, aged \_\_\_\_\_ years.

\*The mother of the child is \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_ subject, aged \_\_\_\_\_ years.

†The guardian of the child is \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_ subject, aged \_\_\_\_\_ years.

The child is at present in the actual custody of \_\_\_\_\_ of \_\_\_\_\_.

‡The following persons are liable to contribute to the support of the child :—

1. \_\_\_\_\_ of \_\_\_\_\_ . 2. \_\_\_\_\_ of \_\_\_\_\_ .

The person to whom the care and possession of the child is proposed to be transferred is \_\_\_\_\_, a British subject, resident at \_\_\_\_\_.

\*\*The following financial arrangements have been made [or are contemplated] in consideration of the transfer of the care and possession of the child (*here set out the arrangements*).

My full name, address and nationality are :—  
and I am making this application as††

Signature of Applicant .....

Date .....

\* If the father or mother is dead, the fact should be stated.

† Strike out this paragraph if it does not apply.

‡ If no persons are liable, write "none." If anyone is liable, state the reason for the liability.

\*\* Give full particulars. If there are no arrangements, write "none."

†† Insert capacity, i.e. parent, guardian or person concerned in making arrangements for the adoption.

## 2

*Form of Notice of hearing. (Rule 4.)*

To the applicant for a licence under section 11 of the Adoption of Children (Regulation) Act, 1939 ; [to the child to whom the application relates ;] and to any person or body who is a parent or guardian of the child, or who has the actual custody of the child, or who is liable to contribute to the support of the child :

Take notice that an application by \_\_\_\_\_ for a licence under section 11 of the Adoption of Children (Regulation) Act, 1939, authorising the care and possession of \_\_\_\_\_ for whose adoption arrangements have been made to be transferred to \_\_\_\_\_ a British subject, resident abroad at \_\_\_\_\_, will be heard at Bow Street Police Court on \_\_\_\_\_ day, the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ at the hour of \_\_\_\_\_ in the fore[after]noon, and further take notice that you may attend the hearing of the said application, and may, if you wish, either support or oppose the granting of a licence.

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

Signature of Magistrate.....

## 3

*Form of Notice requiring production of child at the hearing of an application. (Rule 6.)*

To the person or body having the actual custody of the child in respect of whom an application for a licence under section 11 of the Adoption of Children (Regulation) Act, 1939, is to be made :

Take notice that you are required to produce \_\_\_\_\_, a child in your custody, at the hearing at Bow Street Police Court on \_\_\_\_\_ day, the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, at the hour of \_\_\_\_\_ in the fore[after]noon of an application by \_\_\_\_\_ for a licence under section 11 of the Adoption of Children (Regulation) Act, 1939, authorising the care and possession of the said child for whose adoption arrangements have been made to be transferred to \_\_\_\_\_ British subject, resident abroad at \_\_\_\_\_

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

Signature of Magistrate.....

## 4

*Form of Declaration of Service. (Rule 7 (2).)*

I, \_\_\_\_\_ of \_\_\_\_\_, hereby declare that I did on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, serve \_\_\_\_\_ of \_\_\_\_\_ with a copy of the notice of application for a licence under section 11 of the Adoption of Children (Regulation) Act, 1939, in respect of the child named \_\_\_\_\_, and of the notice of hearing of the said application at Bow Street Police Court on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, at the hour of \_\_\_\_\_ in the fore[after]noon [\*and a notice requiring the production of the said child at the said hearing] by—

- (i) †delivering the said document[s] to \_\_\_\_\_ personally.
- (ii) †sending the said document[s] by registered post to \_\_\_\_\_ at \_\_\_\_\_, being his[her] last known or usual place of abode.
- (iii) †leaving the said document[s] at \_\_\_\_\_, being the registered office of ‡ \_\_\_\_\_ [principal place where ‡ \_\_\_\_\_ transacts or carries on its business].
- (iv) †sending the said document[s] by registered post to \_\_\_\_\_ being the registered office of ‡ \_\_\_\_\_ [principal place where ‡ \_\_\_\_\_ transacts or carries on its business].

Declared before me the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

Justice of the Peace for the county[borough] of \_\_\_\_\_

\* Strike out these words if they do not apply.

† Paragraph (i) or (ii) should be used where an individual is served, and paragraph (iii) or (iv) where a body is served. Strike out the paragraphs and words which do not apply.

‡ Insert name of body served.



## 5

*Form of consent to the making of an application. (Rule 8.)*

I, \_\_\_\_\_ of \_\_\_\_\_, being \*the father, mother, guardian, person having the actual custody, a person liable to contribute to the support, of the child named \_\_\_\_\_ with respect to whom application is to be made at Bow Street Police Court by \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, for the grant of a licence under section 11 of the Adoption of Children (Regulation) Act, 1939, authorising the care and possession of the said child for whose adoption arrangements have been made to be transferred to \_\_\_\_\_, a British subject, resident abroad at \_\_\_\_\_, do hereby declare that I consent to the making of the said application.

In witness whereof I have signed† this consent on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Signature .....

Declared and signed before me [us]

Signature .....

Address .....

Description .....

Signature .....

Address .....

Description .....

\* Strike out the words which do not apply.

† This declaration is required to be made before and signed in the presence of a justice of the peace or, in the case of a person serving out of the United Kingdom, in His Majesty's naval, military or air forces, his commanding officer or, in the case of a person held by the enemy as a prisoner of war two other persons so held who have their ordinary residences in the United Kingdom.

## 6

*Form of Licence. (Rule 10.)*

Whereas application has been made this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by \_\_\_\_\_ of \_\_\_\_\_, for a licence under section 11 of the Adoption of Children (Regulation) Act, 1939, to authorise the care and possession of \_\_\_\_\_, a child aged \_\_\_\_\_ years, born as far as can be ascertained on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, to be transferred to \_\_\_\_\_, a British subject resident abroad, that is to say, at \_\_\_\_\_:

And whereas I, the undersigned, have heard the said application and am satisfied that all the consents required by section 11 (3) (a) of the said Act have been given or dispensed with, and am further satisfied by the report of \_\_\_\_\_ that the aforesaid \_\_\_\_\_ is a suitable person to be entrusted with the care and possession of the said child, and that the transfer is likely to be for the welfare of the said child:

And whereas I am further satisfied that the aforesaid application is made in connection with arrangements which have been made for the adoption of the said child by \_\_\_\_\_ of \_\_\_\_\_:

Now, therefore, I, the undersigned, do hereby grant, subject to the conditions and restrictions set out in the Schedule hereto, this licence authorising the care and possession of the said \_\_\_\_\_ to be transferred to the said \_\_\_\_\_, and I do hereby authorise the making and receipt of payments as follows:—

Chief Magistrate of the Metropolitan  
Police Courts.

[A Magistrate of the Metropolitan Police  
Court in Bow Street.]

## SCHEDULE

The conditions and restrictions referred to above are—

[877]

## THE ADOPTION SOCIETIES REGULATIONS, 1943

*S. R. & O., 1943, No. 1306**September 8, 1943*

In pursuance of the powers conferred upon me by section 4 of the Adoption of Children (Regulation) Act, 1939, I hereby make the following Regulations:—

1. Every application for the registration of an adoption society under the Adoption of Children (Regulation) Act, 1939, shall be made in the form, and shall give the particulars, set out in the First Schedule to these Regulations. [878]

2. The fee to be paid by an adoption society to the registration authority in respect of registration shall be £1. [879]

3. Where the parent or guardian of a child proposes to place a child at the disposition of a registered adoption society with a view to the child being adopted, the society—

(a) shall furnish the parent or guardian with a memorandum in the form set out in the Second Schedule to these Regulations; and

(b) shall not accept the child unless the parent or guardian has signed and delivered to the society a certificate (which the society shall retain) in the form set out in the Second Schedule to these Regulations that he has read and understood the said memorandum. [880]

4. In the case of every child proposed to be delivered by or on behalf of a registered adoption society into the care and possession of an adopter—

(a) the society shall make inquiries and obtain reports on the points set out in the Third Schedule to these Regulations, and the report obtained on the health of the child shall be signed by a duly qualified medical practitioner; and

(b) the case shall be considered by a committee (to be called a “case committee”) appointed by the society for the purpose and consisting of not less than three persons. [881]

5. No child shall be delivered into the care and possession of an adopter by or on behalf of a registered adoption society until—

(a) the adopter has been interviewed by the case committee or by some person on their behalf;

(b) a representative of the case committee has inspected any premises in Great Britain in which the adopter intends that the child should reside permanently; and

(c) the case committee have considered the reports required by Regulation 4. [882]

6.—(1) Every registered adoption society shall, within twelve months of the date of registration and thereafter at least once in every period of twelve months, furnish to the registration authority—

(a) duly audited accounts and balance sheet; and

(b) a report in the form set out in the Fourth Schedule to these Regulations.

(2) For the purposes of sub-paragraph (a) of paragraph (1) of this Regulation, the auditor shall be an independent person who is a chartered accountant or a member of an association or society of accountants incorporated at the date on which these Regulations come into force or is on other grounds accepted by the registration authority as competent for the purpose; and no

person shall be deemed to be independent if he is related to or associated in business with any member of a committee or any officer of the society. [883]

7.—(1) Every registered adoption society shall make adequate arrangements for the care and supervision of children who have been placed by their parents or guardians in the care of the society.

(2) Every such child who—

(a) is not living under the direct control of the society, and

(b) is not a child under the age of nine years placed with a person who has undertaken the nursing and maintenance of the child for reward,

shall, unless and until the child has been adopted in pursuance of an adoption order, be visited in the first month and thereafter at least once in every three months by a representative of the society who shall report upon the case to the case committee; and, if the case committee so recommend, the society shall immediately remove the child. [884]

8. The Interpretation Act, 1889, applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [885]

9.—(1) These Regulations may be cited as the Adoption Societies Regulations, 1943.

(2) These Regulations shall not extend to Scotland. [886]

\* \* \* \* \*

Home Office,  
Whitehall.

8th September, 1943.

### FIRST SCHEDULE

#### *Form of Application for Registration*

#### ADOPTION OF CHILDREN (REGULATION) ACT, 1939

#### Application for Registration

(I) (We) the undersigned being (a person) (persons) duly authorised on behalf of the adoption society called  
hereby apply to the County (Borough) Council of\*  
to have the said society registered under the above mentioned Act.

The following are particulars of the society:—

1. Date of establishment.
2. Full postal address of the society's administrative centre.
- 3.—(a) For what object(s) does the society exist?  
(b) Does it exist only for the above object(s)?  
(c) Does it apply the whole of its profits, if any, and other income in promoting the above objects?

A copy of the instrument governing the society's activities should be attached.

- †4. Full names, addresses and occupations or descriptions of all members of the committee controlling the activities of the society.

\* Here insert the name of the Administrative County or County Borough in which the society's administrative centre is situated.

† Attach separate list if necessary.

- \*5. Full names, addresses, occupations or descriptions and qualifications of members of the case committee.
6. Has any person taking part in the management or control of the society or any member of the society been convicted of an offence under the Adoption of Children (Regulation) Act, 1939, or of a breach of any Regulations made thereunder? (If so, give particulars.)
- \*7. Full names, addresses and qualifications of all persons employed by the society, whether voluntary or paid, for the purpose of making any arrangement for the adoption of children.
8. Cases dealt with by the society during the year ended †
- (a) Number of applications from persons wishing to adopt a child.
  - (b) Number of children offered to the society with a view to adoption.
  - (c) Number of children taken into hostels under the direct control of the society pending adoption.
  - (d) Number of children placed by the society pending adoption in foster homes or hostels not under the direct control of the society.
  - (e) Number of children placed with a view to adoption.
  - (f) Number of adoption orders made in respect of children placed by the Society.
- 9.—(a) Number of children placed for adoption by the society and awaiting adoption orders at the end of the year.
- (b) Number of children in hostels under the direct control of the society at the end of the year.
- (c) Number of children at the end of the year in foster homes or in hostels in which they had been placed by the society but which are not under the society's direct control.
10. Copies should be attached of the society's latest annual report and audited statement of accounts.

I  
We hereby declare that the above particulars are correct in every respect.

Signature .....

Office held under the society .....

Address .....

Signature .....

Office held under the society .....

Address .....

Date.....

[887]

\* Attach separate list if necessary.

† Insert date on which last financial year ended.

## SECOND SCHEDULE

*Form of Memorandum and Certificate required by Regulation 3*

## ADOPTION OF CHILDREN (REGULATION) ACT, 1939

Memorandum to be furnished by a registered adoption society to every parent or guardian who proposes to place a child at the disposition of the society.

If an adoption order is made in respect of your child, all your rights and duties with regard to the child will be transferred permanently to the adopter. If you have taken out an insurance policy against funeral expenses for the child, the insurers will be able to advise you whether the policy can be transferred to the adopters, as is often the case.

It is for the adopters to apply for an adoption order, but unless there is some special reason to the contrary, the court which deals with the application will not make an order without your consent. The only grounds on which an adoption order can be made without the consent of the child's parents or guardians are that they have deserted the child or cannot be found or are out of their proper senses or otherwise incapable of giving consent. You may have to appear before the court in private to tell them whether you agree to the adoption.

An adoption society cannot arrange for your child to be sent abroad for adoption without a licence from a metropolitan police magistrate, and here again the licence cannot be granted without your consent, unless for one of the reasons stated above.

Certificate to be furnished to a registered adoption society by every parent or guardian who proposes to place a child at the disposition of the society.

To\*

I hereby certify that I received from you a memorandum headed "Adoption of Children (Regulation) Act, 1939" from which I have detached this form of acknowledgment; and that I have read the memorandum and understand it.

Signature .....

Address .....

Signature .....

Address .....

Date.....

[888]

\* Here insert name of adoption society.

## THIRD SCHEDULE

Points on which inquiries must be made and reports obtained in the case of every child proposed to be delivered by or on behalf of a registered adoption society into the care and possession of an adopter.

*Part A. Particulars relating to the child*

1. Name.
2. Address.
3. Date and place of birth.
4. Is the child a British subject?
5. If baptised, state place of baptism and denomination.
6. Full name, address and age of the child's parents. If dead, state date of death.
7. Parents' religion(s).
8. Has either parent any other children? If so, state their age and sex.

9. Is there any history of insanity, tuberculosis or other disease in the family of either parent ?
10. Why is the child offered for adoption ?
11. Has the child any right or interest in property ?  
If so, give full particulars.
12. Has any insurance been effected on the life of the child ?

*Part B*

1. If the mother is alive, does she consent to adoption ?
2. If the father is alive,
  - (a) is he married to the mother or otherwise liable to contribute to the child's maintenance ? If so, give particulars.  
(If the parents are separated, state whether there is a separation order in force.)
  - (b) does he consent to the adoption ?
3. If the child has guardians, state :—
  - (a) their names and addresses ;
  - (b) how and by whom they were appointed ;
  - (c) whether they consent to adoption.
4. (a) Are any other persons liable to contribute to the support of the child ?  
(b) If so, do they agree to adoption ?
5. If the answer to question 1, 2 (b), 3 (c) or 4 (b) is in the negative, the reasons should be stated.

*Part C. Particulars relating to the adopter*

1. Name(s).
2. Address(es).
3. Country of domicile.
4. Date(s) of birth.
5. Religion(s).
6. Occupation(s).
7. Is it intended to apply for an adoption order ?
8. Is the adopter married or are the adopters a married couple ? If so, give date and place of marriage, and say whether it is intended to make a joint application for an adoption order ?
9. Is there any child of the adopter(s) living at home ? If so, give age and sex.
10. Has any child been adopted by the adopter(s) before ? If so, give particulars.
11. What is the accommodation and condition of the home ?
12. What are the means of the adopter(s) ? How far are the earnings of children living at home included ?
13. What are the wishes of the adopter(s) as to the age and sex of the child they wish to adopt ?
14. Give the names and addresses of two responsible persons who can vouch for the character of the adopter(s).

*Part D*

1. (a) Have the particulars given under Parts A, B and C above been verified so far as possible ?  
(b) Have the particulars of the birth of the child, and of the death, marriage or separation of the parents, and of the marriage of the adopter(s) been confirmed by inspection of certificates of birth, death or marriage or the separation order ?
2. Has a representative of the case committee interviewed the adopter(s) ?
3. Has the home of the adopter(s) been inspected by a representative of the case committee ? Was it found satisfactory ?
4. Are the adopter(s) and the members of their household persons of good character ? Have their references been taken up ?
5. Do the adopter(s) and the members of their household appear to be in good health ?
6. Has the child been seen by the adopter(s) ?
7. Has the child been accepted by the adopter(s) with a view to adoption ?

*Part E. Medical Particulars*

(The medical report must be signed by a duly qualified medical practitioner.)

1. (a) Date of birth.  
(b) Weight at birth (state if premature).  
(c) Present weight.  
(d) Was the mother's confinement normal or instrumental ?
2. Was the child—  
(a) entirely breast-fed ;  
(b) partially breast-fed ; or  
(c) entirely bottle-fed ?
3. State of nutrition (good, fair, poor).
4. (a) When did the child begin to walk ?  
(b) When did the child begin to talk ?
5. Has the child any affection of bones, muscles, or joints ?
6. Are there any evidences of paralysis ?
7. Are there any evidences of syphilis ? State result of serological test.
8. Is there any evidence of tuberculosis ?
9. Has the child had fits ? If so, state nature.
10. Is there, or has there been, any affection of the skin ?
11. Is there, or has there been, any affection of the eyes ?  
Is the sight normal ?
12. Has the child had any discharge from the ears, or any serious ear trouble, and can it hear well ?
13. Are the nose and throat in healthy condition ?



14. Is there any evidence of disease of heart or lungs ?
15. Has the child normal control of bowels and bladder for its age ?
16. Is the child now suffering from any infectious or contagious disease ?
17. Has the child had scarlet fever, measles, chicken-pox, whooping-cough, diphtheria, or mumps ?
18. (a) Has the child been vaccinated ?  
(b) Has the child been immunised against diphtheria ?
19. Has the child any signs of active or healed rickets ?
20. Is the child's mental and physical development normal for its age ?
21. Are behaviour, speech and articulation normal for its age ?
22. If the child has been neglected or improperly fed, do you consider its constitution such that good nursing and proper care would make it suitable for adoption ?
23. Give particulars of any condition not mentioned above about which you consider an adopter should be informed. [889]

#### FOURTH SCHEDULE

##### *Form of Annual Report*

##### ADOPTION OF CHILDREN (REGULATION) ACT, 1939

Report to the County (Borough) Council from the adoption society called  
.....for the year ended\*

1. Full postal address of the society's administrative centre.
2. Has there been any change in the objects for which the society exists ? Does it still apply the whole of its profits, if any, and other income in promoting those objects ?
- †3. Full names, addresses, and occupations or descriptions of all members of the committee controlling the activities of the society.
- †4. Full names, addresses, occupations or descriptions and qualifications of members of the case committee.
5. Has any person taking part in the management or control of the society or any member of the society been convicted of an offence under the Adoption of Children (Regulation) Act, 1939, or of a breach of any Regulations made thereunder ? (If so, give particulars.)
- †6. Full names, addresses and qualifications of all persons employed by the society whether voluntary or paid, for the purpose of making any arrangements for the adoption of children.

\* Insert date on which last financial year ended.

† Attach separate list if necessary.

7. Cases dealt with by the society during the year ended\*

- (a) Number of applications from persons wishing to adopt a child.
  - (b) Number of children offered to the society with a view to adoption.
  - (c) Number of children taken into hostels under the direct control of the society pending adoption.
  - (d) Number of children placed by the society pending adoption in foster homes or hostels not under the direct control of the society.
  - (e) Number of children placed with a view to adoption.
  - (f) Number of adoption orders made in respect of children placed by the society.
8. (a) Number of children placed for adoption by the society and awaiting adoption orders at the end of the year.
- (b) Number of children in hostels under the direct control of the society at the end of the year.
- (c) Number of children at the end of the year in foster homes or in hostels in which they had been placed by the society but which are not under the society's direct control.

9. A copy should be attached of the society's latest annual report.

I  
We hereby declare that the above particulars are correct in every respect.

Signature .....

Office held under the society.....

Address .....

Signature .....

Office held under the society .....

Address .....

Date .....

[890]

\* Insert date on which last financial year ended.

## THE ADOPTION OF CHILDREN (TRANSFER ABROAD) (FORM OF LICENCE) REGULATIONS, 1943

*S. R. & O., 1943, No. 1316*

*September 8, 1943*

In pursuance of the power conferred upon me by subsection (1) of section four of the Adoption of Children (Regulation) Act, 1939, I hereby make the following Regulations :—

1. The form of licence authorising the care and possession of a child for whose adoption arrangements have been made to be transferred to a British

subject resident abroad granted under subsection (3) of section eleven of the Adoption of Children (Regulation) Act, 1939, by a police magistrate shall be the form in the Schedule hereto. [891]

2.—(1) These Regulations may be cited as the Adoption of Children (Transfer Abroad) (Form of Licence) Regulations, 1943.

(2) These Regulations shall not extend to Scotland. [892]

\* \* \* \* \*

Home Office,  
Whitehall.

8th September, 1943.

### SCHEDULE

#### *Form of Licence*

Whereas application has been made this                      day of                      , 19                      , by                      of                      for a licence under section 11 of the Adoption of Children (Regulation) Act, 1939, to authorise the care and possession of                      , a child aged                      years, born as far as can be ascertained on the                      day of                      , 19                      , to be transferred to                      , a British subject resident abroad, that is to say at

And whereas I, the undersigned, have heard the said application and am satisfied that all the consents required by section 11 (3) (a) of the said Act have been given or dispenses with, and am further satisfied by the report of that the aforesaid                      is a suitable person to be entrusted with the care and possession of the said child, and that the transfer is likely to be for the welfare of the said child :

And whereas I am further satisfied that the aforesaid application is made in connection with arrangements which have been made for the adoption of the said child by                      of

Now, therefore, I, the undersigned, do hereby grant, subject to the conditions and restrictions set out in the Schedule hereto, this licence authorising the care and possession of the said                      to be transferred to the said                      and I do hereby authorise the making and receipt of payments as follows :—

Chief Magistrate of the Metropolitan  
Police Courts.

[A Magistrate of the Metropolitan Police  
Court in Bow Street.]

### SCHEDULE

The conditions and restrictions referred to above are—

[893]

Circular No. 2866

*To Welfare Authorities (England)  
and the London County Council.*

MINISTRY OF HEALTH,  
WHITEHALL,  
LONDON, S.W.1.

1st October, 1943.

SIR,

### THE CARE OF ILLEGITIMATE CHILDREN

1. I am directed by the Minister of Health to state that he has had under special consideration the problems arising under war conditions in regard to illegitimate children. He referred this matter for consideration to one of the Sub-Committees of his Advisory Committee on the Welfare of Mothers and Young Children and he has taken into account recommendations recently made by them. [894]

2. He now desires to call the attention of all welfare authorities to the importance of this matter and to ask them, even in the present difficult circumstances, to give their earnest consideration to the problems presented. He suggests, below, some lines on which the difficulties may be dealt with. [895]

3. It is clear that there can be no complete solution of the problem, since every child needs both a father and a mother, affection, security and the shelter of a normal home, but the successful work of voluntary agencies and moral welfare workers attached to diocesan and other religious bodies has shown that much can be done to help the mother and to safeguard the child. [896]

4. In most areas, the Minister thinks, the most promising line of attack would be that the welfare authorities should co-operate with and reinforce the work of existing voluntary moral welfare associations, and he suggests therefore that every welfare authority should formulate a scheme for this purpose. The range of work will be a wide one and the appointment of a trained worker experienced in the special problems she will have to handle will probably form an essential part of the organisation and administration of this scheme. The Minister recognises that it may be impossible to find enough suitable people to undertake the work whilst the war lasts, but he thinks that a beginning might be made in some areas at least. The worker to be appointed should have taken one of the recognised courses of training in social service and also have some knowledge of moral welfare; experience in probation work would be valuable. Some authorities may have a worker already on the staff who could suitably undertake the work, *e.g.* the welfare worker engaged in the Evacuation Welfare Service or the social worker whose appointment is recommended in Circular 2834 of the 23rd July, 1943, who might combine the duties now outlined with those set out in the earlier Circular. It is essential that whoever is appointed should work in close co-operation with the Health Visitors.

In County districts it would probably be desirable to arrange for a combination of areas, and I am to suggest that the County Council might call a Conference of the separate welfare authorities within the County in order that a joint scheme might be prepared. [897]

5. It is suggested that the duties which the special worker might undertake, in co-operation with the existing workers in voluntary societies, are:—

(a) Wherever possible to persuade the girl to make known her circumstances to her parents and, if the home is likely to be a satisfactory one, to persuade the grand-parents to make a home there for the little one.

(b) Advising the expectant mother on suitable accommodation before and immediately after confinement.

(c) Assisting the girl to obtain an affiliation order or otherwise to secure assistance from the father of the child.

(d) Assisting the mother to find employment, preferably with her baby, in an institution or in private employment.

(e) If a home cannot be found for the baby with the girl's relatives (see (a) above), finding lodgings for mother and baby when the mother desires non-resident work. This accommodation might be in a special hostel set up by a voluntary body or by the welfare authority itself. If in ordinary lodgings it would be necessary to arrange for the baby's care by day, *e.g.* in a war-time nursery.

(f) Finding a suitable foster mother if it is necessary for mother and baby to be separated. In such cases it may be desirable for the authority

to guarantee payment to the foster mother, recovering from the mother. (This scheme works satisfactorily in Birmingham.)

(g) Arranging for places in a residential Nursery or Home, for babies whose mothers cannot look after them and for whom accommodation cannot be found by other means.

(h) In special cases, *e.g.* where the mother is very young or is the wife of a man not the father of the child, giving advice about legal adoption.

In nearly all these cases it will be desirable to follow up the advice given, in co-operation with the Health Visitor, and to see that the mother keeps her baby under observation at the Infant Welfare Centre until it is handed over to the education authorities. [898]

6. I am to ask that welfare authorities will give very early and urgent attention to this matter and will submit proposals to the Minister, in accordance with Section 204 of the Public Health Act, 1936, within the next few months.

A separate copy of this Circular is being sent to the Medical Officer of Health. [899]

I am, Sir, etc.

\* \* \* \* \*

The Clerk of the Council.  
The Town Clerk.

Circular 2832

MINISTRY OF HEALTH,  
WHITEHALL,  
LONDON, S.W.1.  
14th July, 1943.

*To Welfare Authorities (England).*

SIR,

### WAR ORPHANS

I am directed by the Minister of Health to refer to Circular 2422 dated 19th July, 1941, and to state that he has been in consultation with the Ministry of Pensions in regard to a limited class of war orphans, for whose care the Minister of Pensions is responsible under the War Orphans Act, 1942, and who are placed by him with foster parents selected and approved by him.

In these cases whole-time officers of the Ministry of Pensions keep in close contact with the children and maintain effective supervision not only whilst the children are under nine years of age but until the Minister's duty in respect of them under the War Orphans Act, 1942, ceases, and it has been represented that visitation of these children by Child Life Protection visitors in addition to supervision by officers of the Ministry of Pensions is not necessary in the interests of the children and occasionally gives rise to difficulties and to objections on the part of the persons in whose care the Minister of Pensions has placed them.

The Minister of Health therefore suggests that in the case of those war orphans under the age of nine for whom the Minister of Pensions has statutory responsibility the Authority might instruct their Child Life Protection visitors normally to leave the visiting to the officers of the Ministry of Pensions while maintaining in regard to them the friendly co-operation with those officers which has already been established in connection with the care of war orphans generally.

The Ministry of Pensions will be responsible for notifying the local authority, at the time when notice under Section 206 of the Public Health Act, 1936, is given in respect of a child, that the case is one which falls within the ambit of this circular.

A copy of the circular is being sent direct to the Medical Officer of Health.  
[900]

I am, Sir, etc.

\* \* \* \* \*

The Clerk of the Council  
or  
The Town Clerk.

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## CASES

*Children—Protection of children and young persons—Approved school order—Determination of place of residence—Children and Young Persons Act, 1933 (c. 12), ss. 62, 66 (1), 90 (2).*

A young person named Josephine Anderson, whose father, mother and stepfather were deceased, after staying with her half-brother in South Shields and then in a boarding house in the same borough, travelled to London and lived there in circumstances which made it expedient that she should have care and protection. As a result she was brought before the juvenile court under the Children and Young Persons Act, 1933, s. 61, and a supervision order was made directing that she should be placed under the supervision of a probation officer in Liverpool where she was to live with her sister. A few weeks later, Anderson left Liverpool and went to South Shields where, in consequence of a message received from the metropolitan police, she was taken into custody and brought to London. She again appeared before the juvenile court, this time under s. 66 (1) of the Act, and in an order that she be sent to an approved school, her place of residence was stated as South Shields. The South Shields Corporation appealed under s. 90 (2) of the Act, with a view to the substitution in the order of Liverpool as Anderson's place of residence, but the appeal was dismissed on the ground that the material time for the purpose of ascertaining residence was the time at which the child was first before the court as a young person in need of care and protection and that at that time she was not resident in Liverpool :—

*Held* : the material time for the purpose of ascertaining residence was the time of the making of the approved school order and at that time the young person was resident in Liverpool.—SOUTH SHIELDS CORPN. v. LIVERPOOL CORPN., [1943] 1 K. B. 264 ; [1943] 1 All E. R. 338 ; 112 L. J. (K. B.) 318 ; 168 L. T. 238 ; 107 J. P. 77 ; 41 L. G. R. 104, D. C. [901]

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## INFECTIOUS DISEASES

*See DISEASE.*

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# LAND DRAINAGE

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## STATUTES

### AGRICULTURE (MISCELLANEOUS PROVISIONS) ACT, 1943

\* \* \* \* \*

[22nd April, 1943]

\* \* \* \* \*

**2. Repeal of time limit for Exchequer grants towards land drainage expenditure.**—Subsection (3) of section fifteen of the Agriculture Act, 1937, as amended by section two of the Agriculture (Miscellaneous Provisions) Act, 1941 (which prohibits the making of grants towards any expenditure incurred by a drainage authority after the thirty-first day of July, nineteen hundred and forty-four), is hereby repealed. [902]

S. 15 of the Agriculture Act, 1937 (30 Statutes 799), enables the Minister of Agriculture and Fisheries to make grants towards the expenditure incurred by certain drainage authorities in the exercise of their functions in carrying out drainage schemes. By s. 15 (3) grants under that section might not be made after July 31, 1940, subject to a proviso that that date might be extended for not more than two successive periods of one year each by Order of the Minister. Following extensions under this proviso by S. R. & O., 1940, No. 820, and 1941, No. 1115, a new sub-s. (3) was, as from August 1, 1941, inserted in s. 15 of the Agriculture Act, 1937, by s. 2 of the Agriculture (Miscellaneous Provisions) Act, 1941 (34 Statutes 3). The effect of this substituted subsection was to extend the period during which grants could be made until July 31, 1944.

The present section repeals s. 15 (3) of the Agriculture Act, 1937, as so substituted, and accordingly Government grants towards the expenditure of drainage authorities become a permanent, as opposed to a temporary, aspect of agricultural policy.

**3. Extension of definition of agricultural land for certain drainage purposes.**—(1) For the purposes of Part III of the Agriculture (Miscellaneous War Provisions) Act, 1940 (which relates to land drainage), any land as respects which directions have been given under Defence Regulations with respect to the cultivation, management or use of the land for agricultural purposes, shall be deemed to be agricultural land. [903]

(2) There shall be paid out of moneys provided by Parliament any increase attributable to the passing of this section in the grants that are authorised to be made by the Minister under section fourteen or section fifteen of the said Act, as amended by any subsequent enactment, or under section fifty-five of the Land Drainage Act, 1930, or section fifteen of the Agriculture Act, 1937, as those sections apply for the purposes of section sixteen of the said Agriculture (Miscellaneous War Provisions) Act, 1940. [904]

Part III of the Agriculture (Miscellaneous War Provisions) Act, 1940 (33 Statutes 11), as extended by ss. 2–8 of the Agriculture (Miscellaneous Provisions) Act, 1941 (34 Statutes 3), introduced extensive provisions for the drainage of agricultural land. These provisions were, however, limited by the definition of agricultural land in s. 29 of the Land Drainage Act, 1930 (23 Statutes 550), which was applied by s. 22 of the Agriculture (Miscellaneous War Provisions) Act, 1940 (33 Statutes 17), as follows:—

“The expression ‘agricultural land’ means any land used as arable, meadow or pasture ground only, land used for a plantation or a wood or for the growth of saleable underwood, land exceeding one quarter of an acre used for the purpose of poultry farming,



market gardens, nursery grounds, orchards or allotments, including allotment gardens within the meaning of the Allotments Act, 1922, but does not include land occupied together with a house as a park, gardens (other than as aforesaid), pleasure grounds, or land kept or preserved mainly or exclusively for purposes of sport or recreation, or land used as a racecourse."

Under Reg. 62 of the Defence (General) Regulations, 1939, the Minister of Agriculture and Fisheries is empowered to give such directions in respect of the cultivation, management or use of land for agricultural purposes as he thinks necessary or expedient for the purposes of promoting, increasing or maintaining production in the United Kingdom of articles necessary for the efficient prosecution of the war or for maintaining supplies and services essential to the life of the community. The regulation formerly applied only to agricultural land within the meaning assigned to it by Reg. 100 of the Defence (General) Regulations, 1939, which was identical with the definition contained in s. 29 of the Land Drainage Act, 1930 (*supra*). In consequence of the decision in *Staddon v. Price* (1942), 86 Sol. Jo. 162, April 24, the regulation was amended to enable directions to be given for "the cultivation, management or use of land for agricultural purposes"; and the regulation as so amended provided that the term "agricultural purposes" should include (without being confined to) the purposes of dairy farming, poultry farming, livestock breeding, livestock keeping, vegetable growing, fruit growing and market gardening.

It is obvious that under these extended powers directions may be issued for the cultivation, management or use of much land which would not be agricultural land within the meaning of the definition in s. 29 of the Land Drainage Act, 1930 (*supra*), and accordingly the provisions as to land drainage contained in Part III of the Agriculture (Miscellaneous War Provisions) Act, 1940, as amended (*supra*), would not be applicable. This is remedied by sub-s. (1) of the present section, by virtue of which land is deemed to be agricultural land if directions in respect of its cultivation, management or use have been issued under the Defence Regulations.

Sub-s. (2) of this section is consequential upon the foregoing. For ss. 14-16 of the Agriculture (Miscellaneous War Provisions) Act, 1940, see 33 Statutes 11; for s. 55 of the Land Drainage Act, 1930, see 23 Statutes 569; for s. 15 of the Agriculture Act, 1937, see 30 Statutes 799.

**4. Extension of powers as to drainage scheme.**—(1) Where a scheme for the drainage of any land has been approved under section fourteen of the Agriculture (Miscellaneous War Provisions) Act, 1940, as amended by or under any enactment, or under the said section fourteen as set out in the First Schedule to the Agriculture (Miscellaneous Provisions) Act, 1941, the Catchment Board or other drainage board by whom the scheme was prepared (hereafter in this section referred to as "the board") may, without any further request from the Committee, vary the scheme so as to provide for all or any of the following matters—

- (a) the execution of additional works, and the alteration of works already executed under the scheme prior to the variation thereof;
- (b) the alteration of the area of the scheme;
- (c) the re-apportionment among the owners of land comprised in the area as altered of the net cost (within the meaning of the said section) of the scheme:

Provided that the board shall not vary any such scheme—

- (i) unless they are of opinion that the cost of preparing the variation and carrying out the scheme as varied, together with the cost of preparing the original scheme and carrying it out (so far as it has been or will be carried out before the variation takes effect) will not exceed an amount equal to ten pounds for each acre of land comprised in the area of the scheme as varied; or
- (ii) so as to provide for the execution of additional works or comprise additional land, unless the works or land could have been provided for or comprised in the scheme as originally approved and any necessary consent has been obtained. [905]

(2) The following provisions shall have effect in relation to the variation of any such scheme as aforesaid under the last foregoing subsection:—

- (a) the board shall submit the proposed variation of the scheme to the Minister for his approval, and he may approve it either without modification or with any modifications which he considers

- (b) if the variation of the scheme is not approved by the Minister, no further proceedings shall be taken thereon by the board ;
- (c) if the variation of the scheme is approved by the Minister the board shall as soon as may be serve on the owners of land comprised in the area of the scheme as varied a notice stating that the variation has been approved, and every such notice shall contain a copy of the scheme as varied. [906]

(3) Where any such scheme as aforesaid has been varied under the foregoing provisions of this section, the scheme as so varied shall have effect in substitution for the scheme as originally approved and the provisions of the said section fourteen of the Agriculture (Miscellaneous War Provisions) Act, 1940, as amended by or under any enactment and of the said section fourteen as set out in the First Schedule to the Agriculture (Miscellaneous Provisions) Act, 1941, shall apply accordingly :

Provided that—

- (a) any works executed under the scheme as originally approved shall be deemed for the purposes of the said provisions to have been executed under the scheme as varied, and any expenditure incurred in executing those works shall be deemed to be expenditure in carrying out the scheme as varied ;
- (b) any reference in the said provisions to expenditure incurred in preparing the scheme shall be construed as including a reference to the expenditure incurred in preparing the original scheme and the variation thereof, and the expression “ net cost ” shall be construed accordingly. [907]

(4) Any increase which is ascribable to the foregoing provisions of this section in any grant payable under subsection (7) of the said section fourteen as so amended, or under section fifteen of the Agriculture Act, 1937, shall be paid out of moneys provided by Parliament. [908]

(5) The power of the Minister under subsection (7) of the said section fourteen as so amended, to make grants towards expenditure incurred by Catchment Boards in preparing and carrying out schemes approved by him under that section shall include power to make out of moneys provided by Parliament grants, of such amounts and subject to such conditions as may be approved by the Treasury, towards expenditure incurred by Catchment Boards in preparing under that section schemes or variations thereof which are not submitted to the Minister or are not approved by him. [909]

(6) The power of the Minister under section fifteen of the Agriculture Act, 1937, to make grants towards expenditure incurred by certain drainage authorities in carrying out drainage schemes shall include power to make out of moneys provided by Parliament grants, of such amounts and subject to such conditions as may be approved by the Treasury, towards expenditure incurred by drainage boards other than Catchment Boards in preparing schemes under section fourteen of the Agriculture (Miscellaneous War Provisions) Act, 1940, as set out in the First Schedule to the Agriculture (Miscellaneous Provisions) Act, 1941, or in preparing variations under this section of any such schemes, including schemes and variations which are not submitted to the Minister or are not approved by him. [910]

(7) Where any scheme has been approved under section fourteen of the Agriculture (Miscellaneous War Provisions) Act, 1940, as amended by or under any enactment, or under the said section fourteen as set out in the First Schedule to the Agriculture (Miscellaneous Provisions) Act, 1941, the board may make a contribution towards the expenditure incurred in preparing and carrying out the scheme. [911]

(8) At the end of paragraph (b) of subsection (9) of the said section fourteen as so amended and at the end of the corresponding provision of the said section fourteen as set out in the said First Schedule there shall be added the words "and the amount of any contribution made by the board or any other person towards that expenditure." [912]

(9) Where any sum is payable to a Catchment Board under subsection (4) of the said section fourteen as so amended or to any other drainage board under the corresponding provision of the said section fourteen as set out in the said First Schedule, a complaint made for the purpose of recovering that sum summarily as a civil debt under subsection (5) of the said section fourteen as so amended or under the corresponding provision of the said section as so set out may, notwithstanding anything to the contrary in the Summary Jurisdiction Acts, be made at any time within twelve months from the date when the sum became recoverable. [913]

(10) A demand made in writing on any owner of land by a Catchment Board under subsection (4) of the said section fourteen as so amended or by any other drainage board under the corresponding provision of the said section as so set out may be served in any manner specified in section seventy-five of the Land Drainage Act, 1930, in relation to notices required or authorised to be served under or by virtue of that Act, and, if it is served by delivery the demand or a copy thereof to some person on the land or by fixing the demand or a copy thereof on some conspicuous part of the land, the demand may be addressed to the owner of the land by the description of "owner." [914]

(11) Where the landlord of an agricultural holding has become liable to pay any sum in respect of the holding, either to a Catchment Board under subsection (4) of the said section fourteen as so amended, or to any other drainage board under the corresponding provision of the said section as so set out, or to the Minister under the Third Schedule of the Agriculture (Miscellaneous Provisions) Act, 1941, as applied by section six of that Act, the following provisions shall have effect, that is to say :—

- (a) if the landlord and tenant agree, or in default of such an agreement the landlord proves to the satisfaction of an arbitrator appointed under the Agricultural Holdings Act, 1923, that any works in respect of which the said sum is payable were rendered necessary by the neglect of the tenant to comply with any obligation relating to the maintenance or repair of a water course imposed on him by virtue of the contract of tenancy, the landlord shall be entitled to recover from the tenant or any assignee or successor of the tenant interest on such amount as may be agreed between the landlord and the tenant or, in default of such agreement, determined by the said arbitrator, to be such part of the said sum as was attributable to the execution of those works ;
- (b) the interest shall be payable at such rate as may, in default of such agreement, be fixed by the Treasury, and shall be payable as from the date on which the landlord became liable in respect of the said sum, and shall be payable at the same times and be recoverable in the same manner as the rent payable under the tenancy ;
- (c) where the landlord has elected to pay any such sum as aforesaid by instalments, the whole of that sum shall, for the purposes of this subsection, be deemed to have become payable at the date when it would have been payable but for the election ;
- (d) for the purposes of any arbitration under this subsection, a certificate by the Catchment Board or other drainage board or the Minister, as the case may be, that such part of the said sum as may be

specified in the certificate was attributable to the execution of works so specified shall be conclusive evidence of that fact.

This subsection shall not apply in any case where the arbitrator has made an award, or an agreement has been made between the landlord and tenant, before the passing of this Act under subsection (6) of the said section fourteen as so amended, or under the corresponding provision of the said section as so set out, or under subsection (2) of the said section six, as the case may be, but save as aforesaid shall apply, in substitution for the said provisions in all cases where any such sum has become payable by the landlord of an agricultural holding whether before or after the passing of this Act. [915]

S. 14 of the Agriculture (Miscellaneous War Provisions) Act, 1940 (33 Statutes 11), made provision for the drainage of "outlying land," i.e. agricultural land within a county or borough for which a War Agricultural Executive Committee has been set up, but not within any drainage district other than a catchment area. By s. 5 of the Agriculture (Miscellaneous Provisions) Act, 1941 (34 Statutes 4), which reproduced, with modifications and additions, provisions previously introduced by reg. 62C (4), (4A), (4B), of the Defence (General) Regulations, 1939, the provisions of s. 14 were applied to land within, as well as to land without, a local drainage district; the limit of estimated cost was increased from £5 per acre to £10 per acre; and provision was made for the future maintenance of works executed under s. 14 of the 1940 Act which are not within a drainage district. For the purpose of enabling local drainage district boards to exercise the additional powers so conferred upon them, s. 14 and Sched. V of the 1940 Act have effect as they are set out in Sched. I of the 1941 Act (34 Statutes 14).

The effect of this section is to enable a catchment board, or other drainage board, by whom a scheme has been prepared under the foregoing provisions, to vary the scheme upon its own initiative (but subject to approval of the Minister of Agriculture and Fisheries), for the purpose of the execution of additional works, the alteration of existing works, the alteration of the area of the scheme, or the reapportionment of cost. This power of variation is, however, subject to the limit of cost of £10 per acre as applied to the scheme as a whole, and the variation cannot extend to additional land or to additional works unless such land or works could have been lawfully comprised in the original scheme. Where a scheme is varied under these new provisions, the scheme as varied is substituted for the scheme as originally approved, and s. 14 of the 1940 Act, either in its original form or as it is applied by the 1941 Act (see these notes, *supra*), has effect accordingly. Consequential provisions as to grants-in-aid are contained in sub-ss. (4)-(8). Sub-ss. (9) and (10) facilitate legal proceedings for the recovery of cost. For s. 75 of the Land Drainage Act, 1930, see 23 Statutes 577.

Sub-s. (11) supplements the provisions contained in s. 14 (6) of the 1940 Act (33 Statutes 13), and in the same subsection as it is applied by the 1941 Act (see 34 Statutes 15), to meet the case where the drainage works were necessitated by "neglect of the tenant to comply with any obligation relating to the maintenance or repair of a watercourse imposed on him by virtue of the contract of tenancy." It also supplements s. 6 of the 1941 Act (34 Statutes 6), which provides that "where work for the drainage of any agricultural land has been done . . . under the authority of the Minister in the exercise of powers conferred by Defence Regulations, the expenses reasonably incurred in connection with the work . . . may be recovered from the owners of land the value of which for agricultural purposes will be increased by the doing of the work," subject to a right of recovery by the landlord against any tenant whose neglect necessitated the work.

The right of recovery by a landlord against a neglectful tenant, in respect either of the apportioned cost of drainage schemes under the Acts of 1940 and 1941 or of expenses of works executed by the Minister under emergency powers, arises, under the foregoing provisions, only upon the termination of the tenancy. Thereupon, subject, of course, to any mutual agreement which may have been made between the parties with respect to the matter, if the landlord proves to an arbitrator appointed under the Agricultural Holdings Act, 1923 (1 Statutes 80), that all or any of the works for which he has been required to pay were rendered necessary by the neglect of the tenant, then the arbitrator must award to the landlord compensation equal to so much of the sum paid or payable, or of the net cost, as is attributable to the doing of that work.

The weakness of these provisions from the point of view of the landlord is that the right of recovery is postponed until the termination of the tenancy, and will then extend only to the actual capital cost, with the result that the landlord might well have to wait a very long time for the recovery of his expenditure without any compensating provision for the payment to him of interest upon the amount of that expenditure. This subsection is designed to meet this defect by giving the landlord the right to recover interest, at a rate to be fixed by the Treasury, upon the capital, as well as the amount of such capital required to be paid by him in respect of drainage works necessitated by the neglect of the tenant. Paras. (c) and (d) of the subsection introduce respectively useful provisions where the landlord has elected to pay the cost by instalments, and where any dispute arises as to the amount of expenditure which is to be regarded as attributable to specific works.

The subsection will not have retrospective effect, and any existing award of an arbitrator or existing agreement between landlord and tenant will thus remain unaffected.

It should be noted that the right of recovery as between landlord and tenant arises only where the land in question is a holding within the meaning of the Agricultural Holdings Act, 1923, s. 57 (1 Statutes 113); and that the right of recovery arises only where the works have been rendered necessary by "the neglect of the tenant to comply with any obligation relating to the maintenance or repair of a watercourse imposed on him by virtue of the contract of tenancy."

**5. Recovery of expenses of certain drainage works from Catchment Boards.**—Subsection (1) of section six of the Agriculture (Miscellaneous Provisions) Act, 1941 (which enables the expenses of certain drainage works to be recovered from drainage boards other than Catchment Boards or from the owners of the land improved by the works), shall not apply to any work executed on or in connection with the main river of any catchment area, but expenses reasonably incurred in connection with any such work may be recovered from the Catchment Board of the said catchment area, and in that case the provisions of the First Schedule to this Act shall apply. [916]

S. 6 of the Agriculture (Miscellaneous Provisions) Act, 1941 (34 Statutes 6), provides that where work for the drainage of agricultural land has been done under the authority of the Minister of Agriculture and Fisheries in exercise of powers conferred by Defence Regulations, the expenses reasonably incurred in connection with the work may be recovered from the drainage board within whose area the land is situate, and may in any case be recovered from the owner of land the value of which for agricultural purposes will be increased by the doing of the work. By this section work executed on, or in connection with, the main river of any catchment area is taken out of the scope of s. 6 of the 1941 Act, but the Minister will have a right of recovery against the catchment board in accordance with the provisions of Sched. I to this Act, *post*.

**6. Acquisition of land for drainage works.**—(1) Where it appears to the Minister that it is necessary for him to acquire any land for the purpose of executing drainage works thereon, he may acquire the land either by agreement or compulsorily and, for the purposes of the acquisition thereof, the Lands Clauses Acts shall be incorporated with this Act, subject, however, to the provisions of the Acquisition of Land (Assessment of Compensation) Act, 1919, and the adaptations and modifications set out in the Second Schedule to this Act. [917]

(2) Nothing in this section shall authorise the acquisition of any land which is, or forms part of, a metropolitan common within the meaning of the Metropolitan Commons Act, 1866, or which is subject, or might be made subject, to regulation, under an order or scheme made in pursuance of the Inclosure Acts, 1845 to 1882, or under any local Act or otherwise, or which is or forms part of any town or village green, or of any area dedicated or appropriated as a public park, garden or pleasure ground, or for use for the purpose of public recreation, or of any land the fee simple absolute in possession of which belongs to, and is held inalienably by, the National Trust for Places of Historic Interest or Natural Beauty incorporated by the National Trust Act, 1907, whether subject to any tenancy or not. [918]

(3) The expenses of the Minister in acquiring land under this section shall be defrayed out of moneys provided by Parliament. [919]

This section introduces new powers of acquisition, corresponding to those contained in s. 9 of the Agriculture (Miscellaneous War Provisions) Act, 1941 (34 Statutes 9), where the Minister considers it necessary for him to acquire land for the purpose of executing drainage works thereon.

For the Lands Clauses Acts, see 2 Statutes 1113; for the Acquisition of Land (Assessment of Compensation) Act, 1919, see 2 Statutes 1176; and see also the Acquisition of Land (Assessment of Compensation) Rules, 1919, S. R. & O., 1919, No. 1836/L.30.

For the Metropolitan Commons Act, 1866, see 2 Statutes 567; for the Inclosure Acts, 1845 to 1882, see 2 Statutes 443 *et seq*.

**7. Travelling expenses of members of drainage boards.**—Sub-paragraph (b) of paragraph 12 of Part II of the First Schedule to the Land Drainage Act, 1930, and sub-paragraph (b) of paragraph 12 of Part II of the Third Schedule to the said Act (which relate to the repayment of travelling expenses incurred by members of a Catchment Board and of a drainage board other than a Catchment Board respectively in attending meetings of the board) shall each have effect as if at the end thereof there were added the words “or a committee or sub-committee thereof, or in travelling by the directions of the board or a committee or sub-committee thereof for the purpose of carrying out any

inspection necessary for the discharge of the functions of the board, committee or sub-committee." [920]

Para. 12 (b) of Sched. I to the Land Drainage Act, 1930 (23 Statutes 586), authorises the repayment to members of catchment boards of expenses incurred by them in attending board meetings. Para. 12 (b) of Sched. III to the Act (*ibid.* 590) contains a similar authorisation in relation to members of drainage boards. The present section extends the authorisation to include expenses incurred in attending meetings of any committee or sub-committee of the board, and in carrying out an inspection required by the board, committee or sub-committee. It thereby removes a long-standing anomaly.

### 8. Increase of drainage rates on land where land has been improved.—

(1) Where the annual value of any hereditament for the purpose of drainage rates under the Land Drainage Act, 1930, would apart from this provision be the gross annual value as determined for the purpose of income tax under Schedule A of the Income Tax Act, 1918, and the Minister, on the advice of the Committee, certifies that the annual value of the hereditament has, since the last determination of the said gross annual value, increased by reason of—

- (a) any drainage works, improvements of roads and ways or works of reclamation executed by the Committee in the exercise of powers conferred by Defence Regulations ;
- (b) any drainage works executed in pursuance of a scheme submitted to the Minister by a drainage authority and approved by him ; or
- (c) the execution of any scheme in respect of which the Minister has made a grant under section fifteen of the Agriculture (Miscellaneous War Provisions) Act, 1940, as amended by the Agriculture (Miscellaneous War Provisions) (No. 2) Act, 1940 ;

then, for the purpose of any such drainage rate in respect of any period commencing after the issue of the certificate, the annual value of the hereditament shall, instead of being the gross annual value aforesaid, be such value as may be determined by the drainage board for the drainage district in which the hereditament is situated :

Provided that if, after a certificate has been issued under this section in respect of any hereditament, a fresh determination of the gross annual value of the hereditament is made for the purpose of income tax under Schedule A, this section shall, for the purpose of any drainage rate in respect of any period commencing after that determination, cease to apply to that hereditament. [921]

(2) Where a drainage board have determined the annual value of any hereditament under this section, they shall serve (in accordance with section seventy-five of the Land Drainage Act, 1930) a notice of their determination upon both the owner and the occupier of the hereditament, and the owner and the occupier, or either of them, may within twenty-eight days after the service of the notice, appeal against the determination to a court of summary jurisdiction, whose decision shall be final. [922]

This section makes provision whereby the assessment of drainage rates may be increased in the case where the Minister, on the advice of the War Agricultural Executive Committee, certifies that the annual value of any land has, since the last determination of the gross annual value for the purposes of Sched. A of the Income Tax Act, 1918, been increased by any of the matters specified in paras. (a)–(c) of sub-s. (1) of this section. Such certificate will, however, be superseded, and this section will cease to apply, if a fresh determination of gross annual value for the purpose of Schedule A is made in relation to the particular hereditament ; and any increase in assessment by virtue of this section is subject to the right of appeal conferred by subsection (2).

The reason for the provisions of this section is that the last general assessment for Schedule A purposes was made as long ago as 1935, and no fresh general assessment is likely to be made until after the war. It is obvious, therefore, that much land must have been, and will be, greatly increased in value by reason of statutory drainage and other similar improvements, but would, apart from this section, bear an assessment for drainage rating purposes which, being based upon existing Schedule A assessments, would take no account of the increase in value.

For s. 75 of the Land Drainage Act, 1930, see 23 Statutes 577.



**9. Recovery from tenants of interest on expenditure incurred in executing works for supply of water.**—(1) Where the landlord of any agricultural holding has, in pursuance of directions given by the Committee under Defence Regulations or of a scheme approved by the Committee for the purposes of section fifteen of the Agriculture (Miscellaneous War Provisions) Act, 1940, as amended by any subsequent enactment, executed on the holding any works for the supply of water, he may recover from the tenant of the holding, or any assignee or successor of the tenant, interest on the net cost of the works at such rate as, in default of agreement by the landlord and the tenant, may be fixed by the Treasury; and the interest shall be payable as from the date on which a demand in writing specifying the net cost of the works has been served by the landlord on the tenant after the completion of the works, and shall be payable at the same time and be recoverable in the same manner as the rent payable under the tenancy. [923]

(2) For the purposes of this section the expression “net cost” means, in relation to any works, such expenditure as is certified by the Minister to have been reasonably incurred by the landlord in executing the works and in repairing any scheme or plan therefor. [924]

By reg. 62 of the Defence (General) Regulations, 1939, the Minister of Agriculture and Fisheries has wide powers enabling him to require works to be executed upon land. These powers are invariably delegated by the Minister to the War Agricultural Executive Committee (as to which see s. 23 and notes thereto, *post*). By s. 3 of the Agriculture (Miscellaneous Provisions) Act, 1941 (34 Statutes 3), s. 15 of the 1940 Act (33 Statutes 14; schemes for drainage of agricultural land, and grants therefor), was further extended to include a scheme for the supply of water to any agricultural land.

The provisions of this section are consequential upon the last-mentioned extension of s. 15 of the 1940 Act. Its scope is restricted to works for the supply of water to an agricultural holding which have been executed by the landlord of that holding either in pursuance of a direction under emergency powers or under a scheme approved by the War Agricultural Executive Committee under s. 15 of the 1940 Act, as extended (*vide supra*). In such a case the landlord is by this section entitled to what is in effect an increase of the rent of the holding to the extent of interest at a rate to be prescribed by the Treasury upon the net cost of the works or scheme borne by him. This increase will apparently be a permanent increase for the duration of the tenancy, and will be enforceable equally against either the tenant or any assignee or successor of the tenant; but it does not become enforceable until a demand in writing specifying the net cost of the works has been served by the landlord on the tenant after the completion of the works. The net cost will, in all cases, be the sum certified by the Minister under sub-s. (2) of this section.

It will be noted that this section will only apply where there is an agricultural holding and a contract of tenancy; for the definitions of “agricultural holding,” “landlord” and “tenant,” see s. 23 of this Act, *post*.

**10. Amendment of provisions relating to dams and sluices.**—(1) Sub-section (2) of section sixteen of the Agriculture (Miscellaneous War Provisions) Act, 1940 (which requires drainage boards to pay compensation in respect of the exercise of certain powers relating to dams) shall not apply to the exercise of any power to repair or maintain a dam, and accordingly for the words “by reason of the exercise by the board of any powers conferred on them under this section” there shall be substituted the words “by reason of the alteration or removal of any dam by the board in the exercise of any powers conferred on them under this section.” [925]

(2) Where any dam is repaired or maintained by a drainage board in the exercise of any powers conferred on them under the said section, the expenses thereby reasonably incurred may, if a notice in writing requiring payment thereof and specifying the sum claimed is served on the owner of the dam by the board within one year from the completion of the work, be recovered by the board from that owner at the expiration of three months from the date of the service of the notice and shall, without prejudice to any other mode of recovery, be recoverable by the board summarily as a civil debt:

Provided that an owner from whom any sum is so recoverable may, by notice in writing served on the board within the said three months, elect to



pay the said sum together with the interest thereon from the said date by such number of equal annual instalments, not exceeding five, as may be specified in the notice, so however that—

- (a) the first instalment shall be payable within one year from the said date; and
- (b) the rate of interest shall, in default of agreement between the owner and the board, be fixed by the Treasury. [926]
- (3) Where the landlord of an agricultural holding has become liable to pay any sum under the last foregoing subsection in respect of the repair or maintenance of a dam, the following provisions shall have effect, that is to say :—

- (a) if the landlord and tenant agree, or in default of such agreement the landlord proves to the satisfaction of an arbitrator appointed under the Agricultural Holdings Act, 1923, that any of the works in respect of which the sum is payable were rendered necessary by the neglect of the tenant to comply with any obligation relating to the maintenance or repair of the dam imposed on him by virtue of the contract of tenancy, the landlord shall be entitled to recover from the tenant or any assignee or successor of the tenant interest on such amount as may be agreed between the landlord and the tenant, or in default of such agreement determined by the said arbitrator, to be such part of the said sum as was attributable to the execution of those works;
- (b) the interest shall be payable at such rate as may, in default of such agreement, be fixed by the Treasury, and shall be payable as from the date on which the landlord became liable in respect of the said sum, and shall be payable at the same times and be recoverable in the same manner as the rent payable under the tenancy;
- (c) where the landlord has elected to pay any such sum as aforesaid by instalments, the whole of that sum shall, for the purposes of this subsection, be deemed to have become payable at the date when it would have been payable but for the election;
- (d) for the purposes of any arbitration under this subsection, a certificate by the drainage board that such part of the said sum as may be specified in the certificate was attributable to the execution of works so specified shall be conclusive evidence of that fact. [927]

(4) Section seventeen of the Agriculture (Miscellaneous War Provisions) Act, 1940 (which empowers drainage boards to control the use of sluices) shall have effect subject to the following amendments :—

- (a) in subsection (1) after the words “by notice in writing served on the occupier or person in control of any dam within their district” there shall be inserted the words “or, if in the opinion of the board immediate action is necessary to meet an emergency, by direction given to that occupier or person”, after the words “as may be specified in the notice” there shall be inserted the words “or as may be so directed” and the words in proviso (a) to that subsection “unless it is stated in the notice that in the opinion of the board immediate action is necessary to meet an emergency” shall be omitted;
- (b) in subsection (2) after the words “notice served” there shall be inserted the words “or direction given”, and after the words “the person on whom it is served” there shall be inserted the words “or to whom it is given”. [928]

S. 16 of the Agriculture (Miscellaneous War Provisions) Act, 1940 (33 Statutes 15), provides that where the Minister of Agriculture and Fisheries is satisfied by a drainage board that it

is necessary or expedient so to do for the purpose of preventing or arresting injury to any agricultural land, he may authorise the board to repair, maintain, alter or remove any dam within its district; and, in such a case, the drainage board, by sub-s. (2) was made liable to compensate any person for any loss sustained by him "by reason of the exercise by the board of any powers conferred on them under this section." In default of agreement, the amount of compensation is determinable by an official arbitrator under the Acquisition of Land (Assessment of Compensation) Act, 1919 (2 Statutes 1176) (see s. 15 (3) of the Act of 1940).

Sub-s. (1) of the present section limits the liability of a drainage board to pay compensation under s. 16 of the Agriculture (Miscellaneous War Provisions) Act, 1940, to the cases where the board alters or removes a dam. Where a dam is repaired or maintained by a drainage board in the exercise of their powers under s. 16 of the 1940 Act, instead of the board paying compensation, the expenses reasonably incurred by the board are, subject to service of a three-months' written demand, recoverable from the owner of the dam as a civil debt at any time within one year from the completion of the work (sub-s. (2) hereof). Note that the express provision of this subsection making the expenses incurred recoverable "within one year from the completion of the work" has the effect of extending to one year the six months' limit of time for proceedings which would otherwise apply by virtue of s. 11 of the Summary Jurisdiction Act, 1848 (11 Statutes 270). Note also that there is no appeal or reference of the amount payable to an arbitrator.

The proviso to the subsection confers a right of election to pay by instalments similar to that conferred by s. 14 of the 1940 Act (33 Statutes 11) in relation to the recovery of expenses incurred in carrying out approved drainage schemes.

Sub-s. (3) is similar in effect to ss. 4 (11) and 9 of this Act, see the notes thereto, *ante*.

Sub-s. (4) amends s. 17 of the Agriculture (Miscellaneous War Provisions) Act, 1940 (33 Statutes 15), so as to dispense with the necessity for written notice where immediate action is necessary. Directions may now be given by any convenient method, including for instance telephone.

\* \* \* \* \*

**23. Interpretation.**—In this Act the following expressions have the meanings hereby respectively assigned to them :—

"agricultural holding" means a holding as defined by section fifty-seven of the Agricultural Holdings Act, 1923, and the expressions "landlord" and "tenant", in relation to an agricultural holding, have the same meanings as in the said Act;

"the Committee" means the War Agricultural Executive Committee as defined by section thirty of the Agriculture (Miscellaneous War Provisions) Act, 1940;

"Defence Regulations" means Regulations made under the Emergency Powers (Defence) Acts, 1939 and 1940;

"drainage", "drainage authority", "drainage board" and "drainage district" have the same meanings as in the Land Drainage Act, 1930;

"the Minister" means the Minister of Agriculture and Fisheries. [929]

S. 57 of the Agricultural Holdings Act, 1923 (1 Statutes 113), contains the following definitions :—

" 'Holding' does not include an allotment garden or include any land cultivated as a garden unless it is cultivated wholly or mainly for the purpose of the trade or business of market gardening, but, except as aforesaid, means any parcel of land held by a tenant, which is either wholly agricultural or wholly pastoral, or in part agricultural and as to the residue pastoral, or in whole or in part cultivated as a market garden, and which is not let to the tenant during his continuance in any office, appointment, or employment held under the landlord.

" 'Landlord' means any person for the time being entitled to receive the rents and profits of any land.

" 'Tenant' means the holder of land under a contract of tenancy, and includes the executors, administrators, assigns, guardian, committee of the estate, or trustee in bankruptcy, of a tenant or other person deriving title from a tenant."

By s. 30 of the Agriculture (Miscellaneous War Provisions) Act, 1940 (33 Statutes 23), War Agricultural Executive Committee means

- "(i) in relation to a county, the committee for that county the members whereof are authorised to exercise as respects land in that county any powers of the Minister under regulations made under the Emergency Powers (Defence) Act, 1939; and
- (ii) in relation to a county borough, the committee the members whereof are authorised to exercise within that borough any of the powers aforesaid."

For the Emergency Powers (Defence) Acts, 1939 and 1940, see 32 Statutes 930; 33 *ibid.*, 541, 552. The Regulations concerned with agriculture are regs. 61-68 of the Defence (General) Regulations, 1939, and the Defence (Agriculture and Fisheries) Regulations, 1939 (35 Statutes 1).

By s. 81 of the Land Drainage Act, 1930 (23 Statutes 582), " 'drainage' . . . includes defence against water, irrigation, warping and the supply of water " ; and " 'Drainage authority' means any drainage board constituted, or to be treated as having been constituted, under this Act, or any other body of persons having power to make or maintain works for the drainage of land."

As to "drainage board" and "drainage district," see s. 1 of the Land Drainage Act, 1930 (23 Statutes 529), which provides that for the purpose of the drainage of land there shall be such drainage districts as are mentioned in that section and a drainage board for each such drainage district. Drainage districts are either catchment areas or districts other than catchment areas.

**24. Short title.**—This Act may be cited as the Agriculture (Miscellaneous Provisions) Act, 1943. [1930]

## SCHEDULES

### Section 5.

### FIRST SCHEDULE

#### RECOVERY FROM CATCHMENT BOARDS OF EXPENSES OF CERTAIN DRAINAGE WORKS

1. The Minister shall serve on the Catchment Board, within one year from the completion of the work, a notice specifying the amount of the expenses which the Board is required to pay, and the said expenses shall become recoverable as a debt due to His Majesty at the expiration of one year from the date of the service of the notice and shall, without prejudice to any other mode of recovery, be recoverable by the Minister summarily as a civil debt.

2. The Catchment Board may, by notice in writing served on the Minister at any time within one year from the date of the service by the Minister under the foregoing paragraph elect to pay the said expenses, together with interest thereon from the date on which the expenses would otherwise have become recoverable from the Board, by such number of equal instalments, not exceeding five, as may be specified in the notice ;

Provided that—

- (a) the first instalment shall be payable within one year from the last-mentioned date ; and
- (b) the rate of interest shall, in default of agreement between the Board and the Minister, be fixed by the Treasury.

3. Where the Catchment Board do not exercise the powers conferred on them by paragraph 2 of this Schedule they may borrow money under section forty-six of the Land Drainage Act, 1930, for the purpose of defraying the said expenses as if those expenses were expenses incurred by them under that Act. [1931]

### Sections 6 and 16.

### SECOND SCHEDULE

#### ADAPTATIONS AND MODIFICATIONS OF THE LANDS CLAUSES ACTS

1. This Act shall be deemed to be the Special Act, references to the promoters of the undertaking shall be construed as references to the Minister, and the undertaking shall be deemed to be the use of the land for the purpose for which it is required.

2. The following provisions of the Lands Clauses Consolidation Act, 1845, that is to say—

- (a) sections eighty-four to ninety-one (which relate to entry upon the land acquired) ;
- (b) sections one hundred and twenty-seven to one hundred and thirty-three (which relate to the sale of superfluous land and deficiencies of land-tax and rates) ; and
- (c) sections one hundred and fifty and one hundred and fifty-one (which relate to access to the Special Act),

shall not apply.

3. In determining the amount of compensation payable in respect of the acquisition of any land compulsorily acquired, such reduction, if any, shall be made as is necessary in order to offset any appreciation in the value of the land which is directly or indirectly ascribable to the war.

4. Where possession of any land compulsorily acquired was, before the date of the notice to treat, taken by the Minister or the Committee under Defence Regulations and remained in such possession at that date, the following provisions shall have effect :—

- (a) in determining the amount of compensation payable in respect of the acquisition of the land, the value of the land shall be taken to be the price which a willing seller would, at the date of the notice to treat, have been likely to obtain in the open market for the land if it had remained in the condition in which it was at the time when possession was taken as aforesaid ;
- (b) such adjustment shall be made in the said compensation as may be just, having regard to any payment of, or right to, compensation under the Compensation (Defence) Act, 1939, in respect of the taking of possession of the land as aforesaid, and any such adjustment may, if the arbitrator thinks fit, take the form of a direction that the compensation payable to any person on the acquisition of the land shall be wholly or partly conditional on his relinquishing any such right, to such extent as is specified in the direction.

5. Where the land acquired is glebe land or other land belonging to an ecclesiastical benefice, sums agreed upon or awarded by way of compensation shall not be paid as directed by the Lands Clauses Acts, but shall be paid to the Ecclesiastical Commissioners to be applied by them as money paid to them upon a sale under the provisions of the Ecclesiastical Leasing Acts of land belonging to a benefice. [1932]

The Lands Clauses Acts comprise the Lands Clauses Consolidation Act, 1845 (2 Statutes 1113), which is the basic Act, the Lands Clauses Consolidation Acts Amendment Act, 1860 (*ibid.*, 1166), the Lands Clauses Consolidation Act, 1869 (*ibid.*, 1168), the Lands Clauses (Umpire) Act, 1883 (*ibid.*, 1168), and the Lands Clauses (Taxation of Costs) Act, 1895 (*ibid.*, 1169). See also the Acquisition of Land (Assessment of Compensation) Act, 1919 (*ibid.*, 1176), and Halsbury's Laws of England (2nd ed.), Vol. 6, pp. 9 *et seq.*

S. 84 of the Lands Clauses Consolidation Act, 1845 (2 Statutes 1142), provides against entry upon land acquired (except for survey and similar purposes or except by consent) until the purchase price therefor has been paid, or is deposited and secured as provided by s. 85. Ss. 86–88 relate to the application of purchase money so deposited. S. 89 penalises promoters who enter upon land contrary to these provisions. Ss. 90–91 make consequential provisions as to proceedings.

For the Compensation (Defence) Act, 1939, see 32 Statutes 1013.

\* \* \* \* \*

## ORDERS, CIRCULARS AND MEMORANDA

### THE DRAINAGE AUTHORITIES (EXTENSION OF TERM OF OFFICE) ORDER, 1943

S. R. & O., 1943, No. 1623

November 17, 1943

\* \* \* \* \*

Whereas application has been made on behalf of the drainage authorities mentioned in the Schedule to this Order, praying that His Majesty may be graciously pleased to make an Order in Council with respect to those authorities under section two of the Chartered and Other Bodies (Temporary Provisions) Act, 1939 :

Now, therefore, His Majesty, in exercise of the powers conferred on Him by the said section two and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1.—(1) This Order may be cited as the Drainage Authorities (Extension of Term of Office) Order, 1943.

(2) This Order shall have effect as from the first day of September, nineteen hundred and thirty-nine.

(3) The Interpretation Act, 1889, applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

(4) This Order shall have effect in substitution for the Drainage Authorities (Extension of Term of Office) Order, 1942, so far as concerns the authorities mentioned in the Schedule to this Order, and the said Order of 1942 is hereby revoked so far as concerns the said authorities. [933]

2.—(1) In the case of any of the said authorities which is composed partly of elected members and partly of members appointed in some other way, this Order applies only to elected members, but for the purposes of this provision any member appointed (in whatever way) to fill a vacancy among the elected members shall be deemed to be an elected member.

(2) In the case of a member of any of the said authorities whose term of office expired before the date of the making of this Order, this Order shall not have effect to extend that term of office if, before the said date, an election has been held to fill the vacancy. [934]

3. Subject to the provisions of Article 2 of this Order, the term of office of members of the said authorities shall, if due to expire on some date falling between the end of August, nineteen hundred and thirty-nine, and the beginning of July, nineteen hundred and forty-four, extend to the corresponding date in the year ending with the end of June, nineteen hundred and forty-five, and the elections of new members shall be postponed accordingly. [935]

4. Where, in the case of an authority of whose elected members one third retire annually, the term of office of the members first due to retire is extended by Article 3 of this Order, the term of office of the other members shall be correspondingly extended. [936]

5. Where the enactments, orders and rules relating to any of the said authorities contain no provision for filling a casual vacancy, or provide for the holding of an election to fill a casual vacancy, any casual vacancy occurring before the first elections held after the date of the making of this Order shall (unless it occurred and was filled before that date) be filled by the appointment by the authority of a new member to hold office for the remainder of the term of office of the vacating member. [937]

6. Any provisions of the enactments, orders and rules relating to the said authorities which enable or require a member of the authority to resign or vacate his office before the expiration of his term of office shall apply in relation to the extended term of office of members of the authority, and any provisions thereof relating to elections shall, with any necessary modifications, apply to the postponed elections in like manner as they apply to elections not postponed. [938]

\* \* \* \* \*

## SCHEDULE

## DRAINAGE AUTHORITIES AFFECTED

The Acaster Internal Drainage Board.  
The Ainsty Internal Drainage Board.  
The Airmyrn Internal Drainage Board.  
The Aldborough Internal Drainage Board.  
The Alderton, Hollesley and Bawdsey Internal Drainage Board.  
The Alford Drainage Board.  
The Althorpe Drainage Board.  
The Appleton, Roebuck and Copmanthorpe Drainage Board.  
The Armthorpe Internal Drainage Board.  
The Ashfields Internal Drainage Board.  
The Austwick Internal Drainage Board.  
The Barmby on the Marsh Internal Drainage Board.  
The Bedale Drainage Board.  
The Bedfordshire First Internal Drainage Board.  
The Beetham and Arnside Internal Drainage Board.  
The Bellasize Drainage Board.  
The Benwick Internal Drainage Board.  
The Black Drain Drainage Board.  
The Black Sluice Internal Drainage Board.  
The Blundeston Flixton and Oulton Drainage Board.  
The Bluntisham Separate District Drainage Board.  
The Broadalls Four Hundred and Betty's Nose Drainage Board.  
The Brunstock Beck Drainage Board.  
The Burgh-by-Sands, Beaumont and Orton Drainage Board.  
The Burgh Castle, Bradwell, Gorleston, Southtown and Cobholm Island Drainage Board.  
The Caldicot and Wentlooge Levels Drainage Board.  
The Churchfield and Plawfield Internal Drainage Board.  
The Cliffe Internal Drainage Board.  
The Cod Beck Internal Drainage Board.  
The Cowick Internal Drainage Board.  
The Crowle District Drainage Board.  
The Deeping Fen, Spalding and Pinchbeck Internal Drainage Board.  
The Dempster Internal Drainage Board.  
The Denge and Southbrooks Internal Drainage Board.  
The Downham and Stow Bardolph Internal Drainage Board.  
The Dunsforth Internal Drainage Board.  
The Earby and Salterforth Internal Drainage Board.  
The East Derwent Internal Drainage Board.  
The East Harling Internal Drainage Board.  
The East of the Ouse, Polver and Nar Internal Drainage Board.  
The Fishlake Drainage Board.  
The Fromus, Alde and Thorpeness Internal Drainage Board.  
The Gainsborough Internal Drainage Board.  
The Glassmoor and Mereside Internal Drainage Board.  
The Gordano Valley Internal Drainage Board.  
The Gowdall Drainage Board.  
The Greenoak Drainage Board.  
The Halvergate Fleet Internal Drainage Board.  
The Happisburgh to Winterton Internal Drainage Board.  
The Hesketh Flood Defence Commissioners.  
The Holbeck Internal Drainage Board.  
The Holland Elloe Internal Drainage Board.  
The Houghton and Wyton Internal Drainage Board.  
The Howden Drainage Board.  
The Knottingley to Hensall Drainage Board.  
The Ladden Brook Valley and Yate Internal Drainage Board.  
The Laneham Internal Drainage Board.  
The Langley Chedgrave and Toft Monks Marshes Drainage Board.  
The Level of New Romney Internal Drainage Board.

The Limpenhoe and Reedham Drainage Board.  
The Lothingland Drainage Board.  
The Louth Drainage Board.  
The Lower Aire Drainage Board.  
The Lower Alde Internal Drainage Board.  
The Lower Brue District Drainage Board.  
The Lower Bure Internal Drainage Board.  
The Lower Medway Internal Drainage Board.  
The Lower Swale Internal Drainage Board.  
The Lower Waveney Second Internal Drainage Board.  
The Lower Waveney Third Internal Drainage Board.  
The Lower Yare Second Internal Drainage Board.  
The Lower Yare Third Internal Drainage Board.  
The Lower Yare Fourth Internal Drainage Board.  
The Lyth, Levens and Meathop Drainage Board.  
The Magdalen Internal Drainage Board.  
The March and Whittlesey Internal Drainage Board.  
The Market Weighton Drainage Board.  
The Marshland Smeeth and Fen Internal Drainage Board.  
The Marston Moor Drainage Board.  
The Melferley Brook Drainage Board.  
The Mereside and Ramsey Mere Drainage Board.  
The Messingham Internal Drainage Board.  
The Middle Alde Internal Drainage Board.  
The Middle Bure Internal Drainage Board.  
The Minsmere Internal Drainage Board.  
The Muckfleet and South Flegg Internal Drainage Board.  
The Newark Internal Drainage Board.  
The Newbiggin and Billingham Drainage Board.  
The North Level (Sixth District) Internal Drainage Board.  
The North Moor Drainage Board.  
The North Somerset Internal Drainage Board.  
The North Welland Internal Drainage Board.  
The Oulton, Carlton Colville and Barnby Drainage Board.  
The Ouseburn Internal Drainage Board.  
The Pett Drainage Board.  
The Pilling and Winmarleigh Drainage Board.  
The Postland Drainage Board.  
The Powysland Internal Drainage Board.  
The Ramsey First Internal Drainage Board.  
The Ramsey Second Internal Drainage Board.  
The Ramsey Fourth Internal Drainage Board.  
The Ramsey Fifth Internal Drainage Board.  
The Ramsey Upwood and Great Reveley Internal Drainage Board.  
The Rawcliffe Drainage Board.  
The Repps, Martham and Thurne Internal Drainage Board.  
The River Blyth Internal Drainage Board.  
The River Crimple Internal Drainage Board.  
The River Crossens Drainage Board.  
The River Deben (Lower) Internal Drainage Board.  
The River Deben (Upper) Internal Drainage Board.  
The River Foss Internal Drainage Board.  
The River Gipping Drainage Board.  
The River Ivel Internal Drainage Board.  
The River Kyle Drainage Board.  
The River Lugg Drainage Board.  
The River Stour (Kent) Internal Drainage Board.  
The River Tutt Internal Drainage Board.  
The River Wensum Internal Drainage Board.  
The River Wiske Internal Drainage Board.  
The Romney Marsh Level Internal Drainage Board.  
The Rother Drainage Board.  
The Rye Internal Drainage Board.



The Salthouse and Kelling Internal Drainage Board.  
The Sandown and Brading Drainage Board.  
The Scunthorpe Internal Drainage Board.  
The Selby Dam Drainage Commissioners.  
The Skegness District Internal Drainage Board.  
The Smallburgh Internal Drainage Board.  
The Snaith Drainage Board.  
The Snettisham Internal Drainage Board.  
The Snow Sewer Drainage Board.  
The South Axholme Drainage Board.  
The South Gloucestershire Internal Drainage Board.  
The South Holland Embankment Drainage Board.  
The South Welland Internal Drainage Board.  
The Southwell Internal Drainage Board.  
The Stoke Ferry Internal Drainage Board.  
The Strine, Tern and Roden Drainage Board.  
The Sutton Bridge Internal Drainage Board.  
The Sykehouse Drainage Board.  
The Thornton Internal Drainage Board.  
The Thorntree Drainage Board.  
The Tickhill Drainage Board.  
The Tween Bridge Internal Drainage Board.  
The Upper Alde Internal Drainage Board.  
The Upper Axe Internal Drainage Board.  
The Upper Brue Internal Drainage Board.  
The Upper Bure Drainage Board.  
The Upper Medway Internal Drainage Board.  
The Upper Ouse Internal Drainage Board.  
The Upper Swale Internal Drainage Board.  
The Upper Witham Internal Drainage Board.  
The Upper Yare and Tas Internal Drainage Board.  
The Walland Marsh Internal Drainage Board.  
The Waveney Valley Drainage Board.  
The Went Internal Drainage Board.  
The West Axholme Drainage Board.  
The West Butterwick Drainage Board.  
The West Derwent Internal Drainage Board.  
The West Gloucestershire Internal Drainage Board.  
The West Haddlesey Internal Drainage Board.  
The West Mendip Internal Drainage Board.  
The West Moor Internal Drainage Board.  
The Westside Marshes Internal Drainage Board.  
The Whitewater Internal Drainage Board.  
The Whittlesey and Farcet Internal Drainage Board.  
The Wimblington Combined Internal Drainage Board.  
The Wingland Internal Drainage Board.  
The Winster Internal Drainage Board.  
The Wistow Cawood and Selby Internal Drainage Board.  
The Witham First District Internal Drainage Board.  
The Witham Third District Internal Drainage Board.  
The Witham Fourth District Internal Drainage Board.  
The Witham Fifth District Internal Drainage Board.

THE FOLLOWING ORDERS HAVE BEEN MADE UNDER THE LAND DRAINAGE ACT, 1930:—

Order	No.	Date
River Ouse (Yorks) Catchment Board (Bulmer Internal Drainage District) Order, 1943.	221	February 4.
Caernarvonshire Rivers Catchment Board (Llanfrother Internal Drainage District) Order, 1943.	222	February 1.
River Welland Catchment Board (Addition of Bourne and Thurlby Internal Drainage District to the Deeping Fen, Spalding and Pinchbeck Internal Drainage District) Order, 1943.	550	April 1.
River Douglas Catchment Board (Alteration of Boundaries of the Longton Marsh Internal Drainage District) Order, 1943.	572	March 29.
North Cumberland Rivers Catchment Area Order, 1943	623	April 15.
River Trent Catchment Board (Potteric Carr Internal Drainage District) Order, 1943.	665	April 29.
Brunstock Beck Drainage Board Order, 1943      -      -      -	890	June 17.
River Eden Catchment Area Order, 1943      -      -      -	1,184	August 7.
Preston District Drainage Order, 1943      -      -      -	1,222	August 5.
River Wyre Catchment Board Constitution Order (No. 2) of 1943.	1,418	September 27.
Caernarvonshire Rivers (including the River Conway) Catchment Area Order, 1943.	1,545	October 25.
West Cumberland Rivers Catchment Area Order, 1943.	1,546	October 25.
River Trent Catchment Board (Alteration of Boundaries of the Level of Hatfield Chase within the Trent Catchment Area) Order, 1943.	1,694	November 29.
River Douglas Catchment Board (Alteration of Boundaries of the Hesketh Estate (Flood Defences) Commissioners Area) Order, 1943.	1,729	December 13.
River Eden Catchment Board Constitution Order, 1943	1,779	December 20.

[940]

## LOCAL LAND CHARGES

*See TOWN AND COUNTRY PLANNING.*

## LONDON

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## ORDERS, CIRCULARS AND MEMORANDA

## REGULATIONS MADE BY THE MINISTER OF WAR TRANSPORT WITH RESPECT TO THE ACCOUNTS OF THE PORT OF LONDON AUTHORITY

*S. R. & O., 1943, No. 1326**September 17, 1943*

The Minister of War Transport in exercise of the powers conferred upon him by the Port of London (Consolidation) Act, 1920, and of every other power enabling him in that behalf and without prejudice to any further exercise of the said powers hereby makes the following Regulations :—

1. Throughout the Schedule to the Regulations made by the Minister of Transport on March 28th, 1929, where “£. s. d.” appears, “£.” shall be substituted. [941]

2. That part of the said Schedule which is headed “No. 6—Revenue Account for the year ended 31st March, 19..” shall have effect as if, after the words “Law and Parliamentary Charges”, the following words were inserted :—

“Composition Stamp Duty and Management Fees—Port Stocks.  
Stationery and Stores.  
Postages and Telephones.  
Advertising and Public Notices.” [942]

3. That part of the said Schedule which is headed “No. 8—Net Revenue Account for the year ended 31st March, 19..” shall have effect as if the words “By balance brought forward from previous year” were omitted. [943]

4. That part of the said Schedule which is headed “No 9—General Balance Sheet at 31st March, 19..” shall have effect as if, for the words “Net Revenue Account (Statement No. 8) Balance,” the following words were substituted :—

“NET REVENUE ACCOUNT—BALANCE.

Balance (Surplus or Deficit) at 31st March, 19..

Add (or deduct) balance (Surplus or Deficit) for the year ended 31st March, 19.. (Statement No. 8).” [944]

\* \* \* \* \*

## THE PORT OF LONDON AUTHORITY (EXTENSION OF TERM OF OFFICE) ORDER, 1943

*S. R. & O., 1943, No. 203*

*February 10, 1943*

\* \* \* \* \*

Whereas application has been made on behalf of the Port of London Authority praying that His Majesty may be graciously pleased to make an Order in Council under sections two and four of the Chartered and Other Bodies (Temporary Provisions) Act, 1939, with respect to the elected members of that authority :

Now, therefore, His Majesty, in exercise of the powers conferred on Him by the said sections two and four and of all other powers enabling Him in that behalf is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. The Port of London Authority (Extension of Term of Office) Order, 1941, shall have effect and be deemed always to have had effect as if for the words “nineteen hundred and forty-three”, wherever they occur in Article 1 thereof, there were substituted the words “nineteen hundred and forty-six”.  
[945]

2. This Order may be cited as the Port of London Authority (Extension of Term of Office) Order, 1943. [946]

\* \* \* \* \*

## THE LONDON PASSENGER TRANSPORT BOARD (VALUATION FOR RATING) ORDER, 1943

*S. R. & O., 1943, No. 1492*

*October 19, 1943*

Whereas by the Railways Agreement (Powers) Order (London Passenger Transport Board), 1940, made by the Minister of Transport (now the Minister of War Transport and hereinafter called “the Minister”) under the Railways Agreement (Powers) Act, 1940, it is provided that after the 31st December, 1939, the financial year of the London Passenger Transport Board (hereinafter called “the Board”) shall be the period commencing on the first day of January and ending on the succeeding thirty-first day of December :

And whereas the said Act empowers the Minister to make by Order thereunder such amendments of any enactment or instrument as appear to him to be incidental to, or consequential on, the alteration of the Board’s financial year.

Now, therefore, the Minister by virtue of his powers under the said Act hereby orders as follows :—

1. In Section 23 (1) of the London Passenger Transport (Valuation for Rating) Scheme, 1935, the definition of “Accounting year” shall be amended to read as follows :—

“Accounting year” means the financial year of the Board. [947]

2. Paragraph (a) of Section 4 (1) of the said Scheme shall be amended so as to provide that the accounting years to be taken into consideration by the Railway Assessment Authority under that paragraph shall be, in the case of the roll next subsequent to the first roll, the four years commencing respectively on the first day of July, 1935, the first day of July, 1936, the first day of July, 1937, and the first day of July, 1938, and the half-year commencing on the first day of July, 1939, and ending on the thirty-first day of December in that year; and, in the case of each subsequent roll, the first five of the six accounting years next preceding the year in which the roll is to come into force. [948]

3. The Interpretation Act, 1889, applies for the purpose of this Order as it applies for the purpose of the interpretation of an Act of Parliament. [949]

4. This Order may be cited as "The London Passenger Transport Board (Valuation for Rating) Order, 1943". [950]

\* \* \* \* \*

## THE LONDON PASSENGER TRANSPORT ACT, 1933, RELAXATION ORDER, 1943

*S. R. & O., 1943, No. 1514*

*October 22, 1943*

The Minister of War Transport by virtue of the power conferred upon him by Regulation 56 of the Defence (General) Regulations, 1939, to relax any limitation imposed with respect to any public utility undertaking by any Act determining the functions of the undertakers, and by virtue of all other powers enabling him in that behalf, hereby makes the following Order :—

1. In the application of the proviso to sub-section (1) of section 41 of the London Passenger Transport Act, 1933 (which enables the London Passenger Transport Board (hereinafter referred to as "the Board") to borrow temporarily sums not exceeding at any time a total of three million pounds) no account shall be taken of any sums borrowed by the Board from the Trustees of the Trust Fund set up in respect of the Board's undertaking under Article 19 of the Railway Control Agreement referred to in the Railways Agreement (Powers) Order, 1941, and the said proviso shall accordingly have effect as if after the words "borrowed and outstanding" there were inserted the words "(excluding any sums borrowed by the Board from the Trustees of the Trust Fund set up in respect of the Board's undertaking under Article 19 of the Railway Control Agreement referred to in the Railways Agreement (Powers) Order, 1941)". [951]

2. This Order shall come into force on the thirtieth day of October, 1943, and may be cited as "The London Passenger Transport Act, 1933, Relaxation Order, 1943." [952]

\* \* \* \* \*

## CASES

*Rates and Rating—Metropolis—Reduction in value of club premises due to war conditions—"Cause"—Supplemental list—Valuation (Metropolis) Act, 1869 (c. 67), ss. 46, 47—Rating and Valuation (Postponement of Valuations) Act, 1940 (c. 12), s. 2 (2) (b).*

At the quinquennial valuation made in April, 1936, the gross and rateable values of the Conservative Club premises in the rating area of Westminster were fixed at £8,500 and £7,080 respectively. After the outbreak of hostilities the club made a requisition to be inserted in a provisional list at reduced values. The authority inserted the premises in a provisional list at the existing values. An objection by the club was rejected by the assessment committee. The premises were not included in the supplemental valuation list deposited by the rating authority on July 15, 1940, under the Rating and Valuation (Postponement of Valuations) Act, 1940. The club objected and claimed that the values should be £5,000 gross and £4,163 rateable value. The assessment committee reduced the assessment to £6,800 gross value and £5,663 rateable value, and the club then appealed to quarter sessions. The General Quarter Sessions for the county of London decided that the war and the conditions arising out of it, including the black-out, were a "cause" within the meaning of the Valuation (Metropolis) Act, 1869, s. 47, and that the reduction in value was peculiar to the premises in question and not generally applicable to all hereditaments or substantially all hereditaments in the area. They reduced the assessment to £5,000 gross value and £4,163 rateable value:—

*Held:* the war and the conditions arising out of it, including the black-out, were a "cause" within the meaning of the Valuation (Metropolis) Act, 1869, s. 47, and the reduction in value was peculiar to the premises in question and not generally applicable to all hereditaments in the area, and there was evidence to justify the reduction of the assessment to £5,000 gross value.

*Decision of the Divisional Court* ([1942] 2 All E. R. 196) *affirmed*.—*CONSERVATIVE CLUB v. WESTMINSTER ASSESSMENT COMMITTEE, R. v. COUNTY OF LONDON JUSTICES, Ex. p. WESTMINSTER ASSESSMENT COMMITTEE*, [1943] 1 All E. R. 104; 41 L. G. R. 199, C. A. [953]

*Emergency Legislation—Rates—Property damaged by enemy action—Whether distinction to be drawn between applications for issue of warrant and leave to levy—Courts (Emergency Powers) Act, 1939 (c. 67), s. 1 (2) (a)—Courts (Emergency Powers) (Consolidation) Rules, 1940 (S. R. & O., 1940, No. 408/L.6).*

*Rates and Rating—Remission of rates—Poverty of ratepayer—War damage to property rated—Remission of Rates (London) Act, 1940 (c. 32).*

The respondent's name appeared on the valuation list as the occupier of hereditaments which were partly industrial and partly non-industrial. On September 16, 1940, the industrial part was damaged by enemy action and was vacated by the tenants. The respondent continued to reside in the non-industrial part, paying a rent of 26s. per week to the owner. On November 14, 1940, the respondent was served with a demand note in respect of the second, third and fourth instalments of general rate based on the full rateable value of the hereditaments. On the respondent's representation and in view of the damage to the vacant part, the rate collector acting within the scope of his authority agreed with the owner that the rates should be based on the weekly rent of 26s. in respect of the non-industrial part. The sum of £11 7s. 2d. calculated on this basis was paid by the owner and accepted by the borough treasurer in satisfaction of the third and fourth instalments. The rating authority later applied to the justices for the issue of a distress warrant for

the balance of the full amount of the rates. The justices were satisfied that the respondent was unable to pay by reason of circumstances attributable to the war. The respondent contended that the power given by the Remission of Rates (London) Act, 1940, to a rating authority to reduce or remit rates on account of the poverty of the person liable to pay the rates covered the case of an occupier of working class premises which suffer war damage and renders them uninhabitable. The appellants contended that under the Courts (Emergency Powers) (Consolidation) Rules, 1940, r. 17 (1) a distinction must be drawn between the hearing of the summons for non-payment and the application for leave to levy and that on the hearing of the summons for non-payment the justices are only concerned with proof of formal matters and on such proof must issue a warrant, and only then, if the Courts (Emergency Powers) Act, 1939, is relied on, may they exercise their discretion to stay the levying of distress :—

*Held* : (i) since there was no evidence that the question of the respondent's poverty arose when the agreement was made with the collector, the Remission of Rates (London) Act, 1940, did not apply, and, in the absence of other statutory authority, the rating authority had no power to remit the rate ;

(ii) under the rules made under the Courts (Emergency Powers) Act, 1939, a distinction must be drawn between the application for the issue of the warrant and the application for leave to levy. It is on the latter application that the question of the exercise of the justices' discretion under the 1939 Act arises ;

(iii) on the facts the respondent was liable to pay the full amount of the rates claimed and a warrant should issue but, because the respondent was unable to pay by reason of circumstances attributable to the war, the warrant should issue subject to an order staying the levying of distress without further order.—*STEPNEY BOROUGH COUNCIL v. WOOLF*. [1943] 1 K. B. 202 ; [1943] 1 All E. R. 64 ; 112 L. J. (K. B.) 125 ; 168 L. T. 107 ; 107 J. P. 29 ; 59 T. L. R. 81 ; 41 L. G. R. 44, D. C. [954]

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## LONDON PASSENGER TRANSPORT BOARD

*See* LONDON.

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## LONDON, RATING IN

*See* LONDON.

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# MEDICAL OFFICER OF HEALTH

ORDERS, CIRCULARS AND MEMORANDA :—

Circular 2758 : Superannuation

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## ORDERS, CIRCULARS AND MEMORANDA

*County Councils.**Metropolitan Borough Councils.**Common Council of the City of London.**Borough Councils.**Urban District Councils.**Rural District Councils.**Joint Hospital Boards.**Port Health Authorities.*

Circular 2758

MINISTRY OF HEALTH,  
WHITEHALL,  
LONDON, S.W.1.

18th January, 1943.

SIR,

I am directed by the Minister of Health to say that he has had under consideration the bearing of the Local Government Superannuation Act, 1937, upon the retirement of the medical staff of local authorities. Having regard to the increasing difficulties experienced by local authorities and in the Services because of the shortage of doctors, it appears to him to be contrary to the public interest that a medical officer should be retired on reaching the defined age limit without reference to his fitness and willingness for further service. You will be aware that by virtue of the proviso to Subsection (1) of Section 7 of the Local Government Superannuation Act, 1937, it is open to the employing authority to extend an officer's service (with his consent) for one year, or any less period, and so from time to time as they deem expedient. Alternatively it is open to the authority to offer to an officer who has retired on pension re-employment on such terms as may be mutually agreed upon, in consultation with the County Council and subject to the approval of the Minister in appropriate cases. [955]

I am, Sir, etc.

\* \* \* \* \*

The Clerk of the Council,  
Joint Board or Port Health Authority,  
or  
The Town Clerk.

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## MENTAL HOSPITALS

*See PERSONS OF UNSOUND MIND.*

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## MIDWIVES

*See HOSPITALS.*

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## MILK AND DAIRIES

*See FOOD AND DRUGS.*

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## MOTOR LICENCES

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## STATUTES

## THE FINANCE ACT, 1943

(6 &amp; 7 Geo. 6, c. 28)

[22nd July, 1943.]

\* \* \* \* \*

**7. Relief from duty for vehicles used for clearing snow.**—(1) A mechanically propelled vehicle shall not be chargeable with any duty under section thirteen of the Finance Act, 1920, by reason of the use thereof for clearing snow from public roads by means of a snow plough or similar contrivance, whether forming part of the vehicle or not, or for the purpose of going to or from the place where it is to be used for clearing snow from public roads by those means. [956]

(2) This section shall be deemed to have had effect as from the fourth day of October, nineteen hundred and forty-two. [957]

Excise duty on licences for mechanically-propelled vehicles is imposed by s. 13 of the Finance Act, 1920 (16 Statutes 852). The duty under that section is, however, limited to vehicles "used on public roads" and the new section is designed to relieve vehicles from the duty if they are only used on public roads for the purpose of clearing snow from the roads.

**8. Reduction of duty on certain mechanically propelled vehicles used for agricultural purposes.**—(1) Sub-paragraph (a) of paragraph 4 of the Second Schedule to the Finance Act, 1920 (which, as amended by the Seventh Schedule to the Finance Act, 1933, section ten of the Finance Act, 1939, and section nine of the Finance Act, 1940, provides that locomotive ploughing engines, tractors, agricultural tractors and other agricultural engines shall, in certain cases, be liable only to a five shilling excise duty) shall, in relation to the use on roads, during the period specified in subsection (4) of this section, of any such agricultural or other tractor or engine as aforesaid (being a tractor or engine registered under the Roads Act, 1920, in the name of a person engaged in agriculture or of a registered agricultural contractor and used primarily for work on land in connection with agriculture) have effect as if, for paragraphs (ii) and (iii) thereof, there were substituted the following paragraph :—

"(ii) for hauling agricultural produce of, or articles required for, any farm or market garden". [958]

(2) In this section, the expression "registered agricultural contractor" means a person registered under the Agricultural Contractors (Registration and Control) Orders, 1940, or the Agricultural Contractors (Registration and Control) (Scotland) Order, 1941. [959]

(3) In subsection (7) of section two of the Finance Act, 1935 (which, as amended by section eight of the Finance Act, 1942, excepts from the provisions of that section withdrawing the rebate on heavy oils used as fuel for mechanically propelled vehicles the vehicles mentioned in sub-paragraphs (a), (b), (c)

and (d) of the said paragraph 4) the reference to the said sub-paragraph (a) shall, in relation to the vehicles and the period mentioned in subsections (1) and (4) of this section, be construed as a reference to the said sub-paragraph (a) as amended by subsection (1) of this section. [960]

(4) The period hereinbefore referred to is the period beginning with the eighteenth day of March, nineteen hundred and forty-three, and ending with such date as His Majesty may by Order in Council determine, and this section shall be deemed to have had effect as from the said eighteenth day of March. [961]

This section extends the conditions under which farm tractors and other agricultural vehicles may be used on the roads while still paying only the reduced licence duty of 5s., imposed by the Finance Act, 1920, s. 13 and Sched. II, as amended (16 Statutes 852, 862). In order to qualify for the reduced rate, tractors, etc., were in general allowed to be used only between one part of the farm and another, or between the farm and a railway station, and the haulage could only be undertaken in respect of the land belonging to the owner of the tractor. Under the new section, tractors which are used for the hauling of any agricultural produce or articles required for the farm may qualify for the relief without any limitation as to the starting point or destination of their journey. Moreover, this relief now extends to haulage undertaken for any farm or market garden, instead of only for the land belonging to the owner of the tractor, as formerly. The reduced rate now applies to persons engaged in agriculture, and also to registered agricultural contractors (as defined by sub-s. (2)). Such contractors must be registered with the War Agricultural Executive Committee for the county; an "agricultural contractor" is a person whose principal business is that of ploughing or cultivating land (other than land in his own occupation) or doing any other agricultural operation thereon or threshing the crops of another person (Agricultural Contractors (Registration and Control) Order, 1940; S. R. & O., 1940, No. 1333).

By sub-s. (3), persons who qualify as above, also become eligible for the purchase of petrol taxed at the reduced rate of 1d. instead of 9d. per gallon, for the use of their agricultural tractors. As to the terms of this concession, see the notes to s. 8 of the Finance Act, 1942 (35 Statutes 179).

The amendments effected by this section are a temporary war-time measure, and may be brought to an end by Order in Council under sub-s. (4).

**9. Relief from duty for agricultural vehicles.**—(1) Where a licence has been taken out for a mechanically propelled vehicle under sub-paragraph (a) of paragraph 5 of the Second Schedule to the Finance Act, 1920 (which, as amended by the Seventh Schedule to the Finance Act, 1933, specifies the rates of duty to be charged on vehicles registered in the name of a person engaged in agriculture and used on roads solely by him for the purpose of the conveyance of the produce of, or of articles required for the purposes of, the agricultural land which he occupies), duty at a higher rate shall not become chargeable in respect of that vehicle by reason only that, during such periods and in such areas as may be specified by order of the Treasury, it is used, whether by the person in whose name it is registered or not, for any such purpose as is specified in the order. [962]

(2) An order under this section may be revoked or varied by a subsequent order of the Treasury. [963]

(3) This section shall continue in force until such date as His Majesty may by Order in Council determine. [964]

By Sched. II, para. 5 (a) of the Finance Act, 1920 (16 Statutes 863), as amended, preferential rates of licence duty are prescribed for "goods vehicles" registered under the Roads Act, 1920, in the name of a person engaged in agriculture and used on roads solely by that person for conveyance of the produce of, or of articles required for, the agricultural land occupied by him. The new section provides that this preferential treatment shall not be forfeited by the use of such vehicles by some person other than the registered user, or for purposes other than those prescribed in the 1920 Act, provided the Treasury by Order sanction the particular method of use. The Agricultural Goods Vehicles (Temporary Relief from Duty) Order, 1943 (S. R. & O., 1943, No. 1059), grants such exemption, between July 22, 1943, and October 30, 1943, in respect of use for the conveyance, in the course of harvesting grain, of the grain harvested, straw or other matter resulting from the harvesting, workers engaged in the harvest or incidental operations, and articles required for the harvest or the incidental operations, including articles for the sustenance or comfort of the workers.

The provisions of this section are temporary, to be terminated by Order in Council under sub-s. (3).

**10. Relief from duty for vehicles fitted with towing contrivances.**—(1) For the purposes of paragraphs 4 and 5 of the Second Schedule to the Finance

Act, 1920, the unladen weight of a mechanically propelled vehicle shall not be taken to include the weight of a contrivance attached thereto, being a contrivance designed or adapted for the purpose of enabling the vehicle to tow or be towed :

Providing that in computing the unladen weight of a vehicle there shall not, by virtue of this subsection, be excluded the weight of a contrivance attached to the rear of a vehicle chargeable with duty under the said paragraph 4 or of a vehicle chargeable with duty under the said paragraph 5 and used for drawing a trailer, or, in any event, an amount exceeding

- (a) where a contrivance, the weight of which falls to be excluded, is attached to one end only of the vehicle, one hundredweight ;
- (b) where such a contrivance is attached to each end of the vehicle, two hundredweight. [965]

(2) This section shall be deemed to have had effect as from the first day of August, nineteen hundred and forty-two, and shall continue in force until such date as His Majesty may by Order in Council determine. [966]

Sched. II, paras. 4 and 5 of the Finance Act, 1920 (16 Statutes 862), as amended, lay down the rates of duty imposed on agricultural and other haulage vehicles, as therein defined ; see the notes on ss. 7, 8, 9, *ante*. Except for agricultural vehicles qualifying for the 5s. rate (see s. 8, *ante*) the duty is calculated in relation to the unladen weight of the vehicles. In cases where towing gear is attached to one end of the vehicle only, the present section permits the weight of the gear to be discounted in calculating the unladen weight of the vehicle to be taxed, subject to a maximum deduction of 1 cwt. ; in cases where the vehicle has towing gear at both ends, a similar deduction, up to a limit of 2 cwt., may be made.

It was stated in the House of Commons by the Parliamentary Secretary to the Treasury (390 H. of C. Official Report 245) that the concession is intended to encourage owners to fit towing gear, so that in bad weather any vehicle can tow or be towed.

The provisions of this section are temporary, to be terminated by Order in Council under sub-s. (2).

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## ORDERS, CIRCULARS AND MEMORANDA

### THE METROPOLITAN TRAFFIC AREA (DRIVERS' AND CONDUCTORS' LICENCES) (AMENDMENT) ORDER, 1943

*S. R. & O., 1943, No. 521*

*March 30, 1943*

The Minister of War Transport in exercise of his powers under section 8 of the Metropolitan Public Carriage Act, 1869, and of all other powers enabling him in that behalf hereby orders as follows :—

1. This Order may be cited as “ The Metropolitan Traffic Area (Drivers' and Conductors' Licences) (Amendment) Order, 1943.” [967]

2. The Metropolitan Traffic Area (Drivers' and Conductors' Licences) Order, 1934, shall have effect as though in paragraph 11 thereof the number “ 18 ” were substituted for the number “ 20.” [968]

3. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament. [969]

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## THE AGRICULTURAL GOODS VEHICLES (TEMPORARY RELIEF FROM DUTY) ORDER, 1943

*S. R. & O.*, 1943, No. 1059

July 22, 1943

The Lords Commissioners of His Majesty's Treasury, in pursuance of the powers conferred on them by section nine of the Finance Act, 1943, hereby make the following Order :—

1. Where a licence has been taken out for a mechanically propelled vehicle under sub-paragraph (a) of paragraph 5 of the Second Schedule to the Finance Act, 1920 (which, as amended by the Seventh Schedule to the Finance Act, 1933, specifies the rates of duty to be charged on vehicles registered in the name of a person engaged in agriculture and used on roads solely by him for the purpose of the conveyance of the produce of, or of articles required for the purposes of, the agricultural land which he occupies), duty at a higher rate shall not become chargeable in respect of that vehicle by reason only that, during the period beginning with the date of the coming into operation of this order and ending with the thirtieth day of October, nineteen hundred and forty-three, it is used, in Great Britain, whether by the person in whose name it is registered or not, for the conveyance, in the course of harvesting grain or operations incidental thereto, of—

- (a) the grain harvested ;
- (b) straw or other matter resulting from the harvesting of that grain ;
- (c) workers engaged in the harvesting of that grain or operations incidental thereto ;
- (d) articles required in connection with the harvesting of that grain or operations incidental thereto, including articles required for the sustenance or comfort of the workers aforesaid. [970]

2. This order may be cited as the Agricultural Goods Vehicles (Temporary Relief from Duty) Order, 1943. [971]

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### NON-PROVIDED SCHOOLS

*See* EDUCATION.

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### OFFENSIVE TRADES

*See* REGULATED INDUSTRIES, TRADES AND BUSINESSES.

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### OLD METAL DEALERS

*See* REGULATED INDUSTRIES, TRADES AND BUSINESSES.

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## STATUTES

THE AGRICULTURE (MISCELLANEOUS) PROVISIONS  
ACT, 1943

(6 &amp; 7 Geo. 6, c. 16)

[22nd April, 1943.]

\* \* \* \* \*

11. **Improvement of common lands.**—(1) Where work for the improvement of any land subject to common rights of pasture has been done by the Minister or the Committee in the exercise of powers conferred by or under Defence Regulations, whether or not possession of the land has been taken in the exercise of the said powers, the expenses reasonably incurred in connection with the work may, in accordance with the provisions of this section, be recoverable from the persons who are enjoying (subject to any restriction imposed in the exercise of the said powers) any rights of pasture over the land, whether common rights or other rights, and those expenses may be recoverable from the said persons in such proportions as appear to the Minister to be just having regard to the extent to which the said rights are respectively enjoyed by them. [972]

(2) No sum shall be recoverable from any such person under this section unless a notice in writing requiring payment thereof is served on that person by the Minister within one year from the completion of the work in question, and the notice shall specify the sum which the person on whom it is served is required to pay, and the said sum shall be recoverable at the expiration of three months from the date of the service thereof, and shall, without prejudice to any other mode of recovery, be recoverable by the Minister summarily as a civil debt. [973]

(3) Nothing in this section shall apply to land of which possession has been taken by the Minister or the Committee in the exercise of the powers aforesaid for the purpose of cultivating the land as arable land. [974]

There is no provision for an appeal against a notice requiring payment.

\* \* \* \* \*

## ORDERS, CIRCULARS AND MEMORANDA

THE WIMBLEDON AND PUTNEY COMMONS CON-  
SERVATORS (TEMPORARY PROVISIONS) ORDER, 1943

S. R. &amp; O., 1943, No. 379

March 11, 1943

\* \* \* \* \*

Whereas by the Wimbledon and Putney Commons Conservators (Temporary Provisions) Order, 1940, the Wimbledon and Putney Commons Conservators (Temporary Provisions) Order, 1941, and the Wimbledon and Putney Commons Conservators (Temporary Provisions) Order, 1942, made under section two of the Chartered and Other Bodies (Temporary Provisions)

Act, 1939, provision was made for extending the term of office and postponing the election of elected Wimbledon and Putney Commons Conservators until the year nineteen hundred and forty-three and for incidental and consequential matters :

And whereas application has been made on behalf of the Conservators praying that His Majesty may be graciously pleased to make a further Order in Council with respect to them under the said section two :

Now, therefore, His Majesty, in pursuance of the powers conferred on Him by the said section two and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council to order, and it is hereby ordered, as follows :

1. The period of office of the elected Conservators holding office at the date from which this Order has effect is hereby extended until the first Wednesday in April, nineteen hundred and forty-four, and the election of new Conservators under section fourteen of the Wimbledon and Putney Commons Act, 1871, and the making of a list of electors therefor, shall be postponed accordingly, and the said election shall be held before the said first Wednesday in April, nineteen hundred and forty-four. [975]

2. If before the said first Wednesday in April, nineteen hundred and forty-four, any vacancy occurs among the elected Conservators (whether before or after the date from which this Order has effect), no election shall be held, but another person qualified to be an elector of Conservators shall be appointed by the Conservators under their common seal to fill the vacancy until that day. [976]

3. Subject to the provisions of this Order any enactment or rule of law applicable in the case of elections held under section fourteen of the Wimbledon and Putney Commons Act, 1871, and of Conservators elected thereat shall apply in the case of the election to be held by virtue of Article 1 of this Order and of Conservators elected thereat and any Conservator appointed under Article 2 of this Order. [977]

4.—(1) This Order may be cited as the Wimbledon and Putney Commons Conservators (Temporary Provisions) Order, 1943.

(2) This Order shall have effect as from the first day of March, nineteen hundred and forty-three.

(3) The Wimbledon and Putney Commons Conservators (Temporary Provisions) Order, 1940, the Wimbledon and Putney Commons Conservators (Temporary Provisions) Order, 1941, and the Wimbledon and Putney Commons Conservators (Temporary Provisions) Order, 1942, are hereby revoked, but without prejudice to anything previously done or omitted to be done by virtue of any of the provisions thereof. [978]

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## PERSONS OF UNSOUND MIND

CASES :—

Farmer v. London County Council, [1943] 2 All E. R. 32, C. A.

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### CASES

*Lunatics—Mental hospital—Nurse—Emergency during war—Nurse required to stand by for duty if necessary—Overtime—"Subject to standing orders regulations and rules."*

The appellant was a male nurse at a mental hospital. The terms of his employment were (*inter alia*) that the maximum number of hours that he



should be required to work in any one fortnight should be 96 and that hours worked in excess of that number should be paid for as overtime. There was also included a term that he should be subject to the standing orders, regulations and rules from time to time in force, one of which, in the case of the appellant, was that he was permitted to be non-resident but might be, in rotation with other nurses, required to sleep in for stated periods to be fixed by the sub-committee. After the commencement of the war, the respondent council passed a resolution requiring a minimum number of the nursing staff, male and female, to be available on the premises at all times in case of an emergency, and for this purpose the non-resident staff were from time to time required to "stand by" from 9 p.m. till midnight. A payment of 1s. per night was made to each member of the nursing staff so required to "stand by" and, if there was an emergency, the time the staff were on duty during such emergency was included in their hours of duty and paid for. The appellant contended that time spent standing by should also be included in his hours of duty and, in so far as it caused those hours to exceed 96 hours in a fortnight, it was overtime, and should be paid for at overtime rates:—

*Held*: the appellant was not entitled to overtime pay in respect of the periods during which he was standing by and such duty was included in the contract of service by reason of the words "subject to the standing orders, regulations and rules."—*FARMER v. L.C.C.*, [1943] K. B. 522; [1943] 2 All E. R. 32; 112 L. J. (K. B.) 417; 168 L. T. 421; 107 J. P. 164; 41 L. G. R. 149, C. A. [979]

## POLICE

*See, also, AIR-RAID PRECAUTIONS.*

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## STATUTES

### THE POLICE (APPEALS) ACT, 1943

(6 & 7 Geo. 6, c. 8)

*An Act to extend to members of police forces who are punished by reduction in rank or in rate of pay the rights of appeal granted by the Police (Appeals) Act, 1927.* [980] [11th March, 1943]

**1. Extension of right of appeal to Secretary of State.**—The Police (Appeals) Act, 1927, shall have effect subject to the following amendments that is to say :—

- (a) in the title, for the words “ dismissed or required to resign ” there shall be substituted the words “ punished by dismissal, by being required to resign, by reduction in rank, or by reduction in rate of pay ” ;
- (b) in subsection (1) of section one, for the words “ dismissed or required to resign as an alternative to dismissal ” there shall be substituted the words “ punished by dismissal, by being required to resign as an alternative to dismissal, by reduction in rank, or by reduction in rate of pay ” ;
- (c) in paragraph (c) of subsection (2) of section two, after the word “ punishment ”, where that word occurs for the second time, there shall be inserted the words “ (whether more or less severe) ” ;
- (d) in subsection (4) of the said section two, after the word “ force ” there shall be inserted the words “ or in his rank ”, and after the word “ served ” there shall be inserted the words “ in the force or in that rank, as the case may be, ” ;
- (e) in Part II of the Schedule, for the words “ dismissed or required to resign ” there shall be substituted the word “ punished ”. [981]

By the Police (Appeals) Act, 1927 (12 Statutes 898), a member of a police force who, after the passing of that Act, is dismissed, or required to resign as an alternative to dismissal, has a right of appeal in accordance with the Act and with rules made thereunder. It will be noted that the right of appeal is expressly limited to cases in which the member of the police force concerned is either dismissed, or required to resign as alternative to dismissal ; it does not apply to cases where other punishment, *e.g.* reduction in rank or pay, is imposed.

The necessity for an amendment in the law was disclosed by the effect of the Defence (Amalgamation of Police Forces) Regulations, 1942 (S. R. & O., 1942, No. 1443) (25 Statutes 144) ; as a result of the amalgamations borough police who were subject to the disciplinary authority of the Watch Committee, became subject to the authority of one man, namely, the chief constable of the county force.

The object of the present Act is to provide for the position thus disclosed, but it does, in fact, go much further. It effects a permanent and important alteration in the existing law by so amending the Police (Appeals) Act, 1927, as to apply its provisions to cases where a member of a police force is punished by reduction either in rank or in rate of pay as well as to the cases where a member of a police force is dismissed or required to resign as an alternative to dismissal. These amendments apply alike to county and to borough police forces, and to the Metropolitan and the City of London police forces. In the result, wherever any grave punishment is in future imposed upon a member of any police force in Great Britain, whether by a watch committee in a borough or by a chief constable in a county, there will be a right of appeal to the Secretary of State in accordance with the Police (Appeals) Act, 1927.

Appeals under the Police (Appeals) Act, 1927, as amended by this Act, are governed by the Police (Appeals) Rules, 1943 (S. R. & O., 1943, No. 475), which revoke and replace the Police (Appeals) Rules, 1927 (S. R. & O., 1927, No. 680).

This Act, of course, applies only to regular members of a police force. It has no application to special constables and members of the police war reserve, many of whom are now rendering full-time service. Provision has, however, been made by the Defence (General) Regulations, 1939, Regulation 40Ac (as amended by S. R. & O., 1943, No. 585), for a right of appeal by special constables and members of the police war reserve, who previously had no right of appeal to the Secretary of State on any ground.

The following extract from the speech of the Home Secretary on the second reading of the Bill (386 H. of C. Official Report 120, 121) describes the working of this Act :—

“ I do not expect a flood of appeals as a consequence of this Bill. Although the Police Appeal Act, was passed in 1927 it is interesting to record that there have been only about 200 appeals against the decisions of watch committees and chief constables. The procedure in appeals against dismissal or enforced resignation is this : There can be a decision by the Secretary of State himself, on his own responsibility, in simple cases, in the light of the facts put before him ; or he may appoint, and often does appoint, a tribunal of inquiry which must include a person experienced in police administration, and in the more difficult cases includes an experienced lawyer of standing. That course will continue to be adopted in appropriate cases. There is power to increase the penalty, which I think is right. It is right that the Secretary of State should be free on appeal to increase, decrease, modify or eliminate the penalty altogether, or to uphold the decision of the disciplinary authority. I think there must be a power of variation upwards or downwards, as a safeguard against frivolous appeals which might be brought if there were no risk of losing anything, and, secondly, because it will enable the Secretary of State to deal with cases where the facts lead him to take a more serious view than was taken by the disciplinary authority.

The point may be raised whether a right of appeal ought not to extend to lesser penalties, for example, a fine. If we went to that extent we should, I think, overburden the State machine with things that ought not to come to it. It would be a great pity if the Secretary of State had gravely to consider the question of a half-crown fine, or even a heavier fine, and I do not think it is necessary that he should have to do so. I did consider whether one could set a limit to the fine below which there could be no appeal to the Secretary of State and above which there could be, but I rejected that on the ground that there might be a temptation to the authorities to have regard to that figure of demarcation which would determine whether the case could go to the Secretary of State or not. I think we had better leave the position as it is."

**2. Short title, citation and saving.**—(1) This Act may be cited as the Police (Appeals) Act, 1943, and this Act and the Police (Appeals) Act, 1927, may be cited together as the Police (Appeals) Acts, 1927 and 1943. [982]

(2) Nothing in this Act shall be construed as affecting any punishment awarded before the passing of this Act. [983]

## ORDERS, CIRCULARS AND MEMORANDA

### ORDER AMENDING REGULATION 40AC OF THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1943, No. 585*

*April 20, 1943*

Regulation forty AC of the Defence (General) Regulations, 1939, shall be amended by inserting the following sentence at the end of paragraph (2) thereof (which empowers the Secretary of State to make rules for the regulation of the police war reserve):—

"Notwithstanding that the application of the Police (Appeals) Act, 1927, to such constables as aforesaid is excluded by paragraph (1) of this Regulation, any rules made under this paragraph relating to appeals may include provisions corresponding to all or any of the provisions of the said Act as amended by the Police (Appeals) Act, 1943." [984]

### ORDER AMENDING REGULATION 39 OF THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1943, No. 912*

*June 30, 1943*

1. For paragraph (3) of Regulation thirty-nine of the Defence (General) Regulations, 1939 (which provides that constables transferred to another police force in pursuance of instructions given under paragraph (1) of that Regulation shall be deemed to be members of that force for all purposes), there shall be substituted the following paragraph:—

"(3) Where, in pursuance of instructions given under paragraph (1) of this Regulation, a member of the police force for any police area is required to assist the police force for any other police area, he shall be deemed to have been duly appointed and attested as a constable for that other police area, and shall have powers, duties and privileges accordingly." [985]

2. In paragraph (4A) of the said Regulation, for the word "district" there shall be substituted the word "area". [986]

3. For paragraph (5) of the said Regulation there shall be substituted the following paragraph :—

“(5) In this Regulation the expressions ‘ police area ’, ‘ police authority ’, ‘ police force ’ and ‘ police fund ’ have the same meanings respectively as in the Police Pensions Act, 1921, and for the purposes of this Regulation a special constable appointed under any enactment for any police area shall be treated as if he were a member of the police force for that area.” [987]

*Note as to S. R. & O., 1943, No. 912.—1. Paragraph (1) of Regulation 39 enables the Secretary of State to give instructions with respect to any police force, including instructions for the assistance of one police force by another ; and the original paragraph (3) of that Regulation provided that a constable transferred under such instructions to another police force was to be deemed “ for all purposes ” to be a member of that other force. The new paragraph (3) substituted by Article 1 of the Order is designed to secure that a constable so transferred has all the powers and duties of a constable of the assisted force, but does not cease for other purposes to be a member of his own force.*

*2. There was room for doubt whether instructions given “ with respect to any police force ” under paragraph (1) of the Regulation would extend to special constables. The new paragraph (5) substituted by Article 3 of the Order provides that for the purposes of the Regulation special constables are to be treated as members of the force for their area. (This paragraph also defines certain expressions not hitherto defined in the Regulation, and Article 2 of the Order effects an amendment consequential upon the insertion of one of the new definitions.)*

## ORDER IN COUNCIL AMENDING THE DEFENCE (AMALGAMATION OF POLICE FORCES) REGULATIONS, 1942

*S. R. & O., 1943, No. 73*

*January 13, 1943*

\* \* \* \* \*

His Majesty, in pursuance of the Emergency Powers (Defence) Acts, 1939 and 1940, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, that the Defence (Amalgamation of Police Forces) Regulations, 1942, shall be amended as follows :—

1.—(1) At the end of Regulation one the following shall be added :—

“ and may in particular provide—

(A) for enabling the joint authority to delegate, subject to any directions given at any time by the Secretary of State, any of its functions to a constituent authority ;

(B) for enabling the joint authority and the council of a constituent area to make arrangements, subject to any such directions as aforesaid, for the use by the authority of the services of the officers and servants of the council and the making of contracts and payments on behalf of the authority by the council.

(3) Where the joint authority is a new authority constituted in accordance with any such order—

(a) it shall have the same power of borrowing by way of temporary loan or overdraft under subsection (1) of section two hundred and fifteen of the Local Government Act, 1933, for the purposes mentioned in paragraph (a) of that subsection as if it were a local authority within the meaning of that Act ; and

(b) its accounts shall be subject to audit by a district auditor.”

- (2) In the proviso to paragraph (2) of Regulation four there shall be inserted in sub-paragraph (a), after the words " sub-paragraph (f) ", the words " and sub-paragraph (B) ", and after the said sub-paragraph (a) the following sub-paragraph :—

" (aa) sub-paragraph (A) of paragraph (2) of Regulation one shall have effect, in relation to the order, as if the joint authority for the existing joint area were not, and as if the police authority for each of the constituent areas combined in the existing joint area were, a constituent authority ; and ".

- (3) In Regulation seven after paragraph (a) there shall be inserted the following paragraph :—

" (aa) Regulation one shall have effect as if for paragraph (3) there were substituted the following paragraph :—

' (3) Where the joint authority is a new authority constituted in accordance with any such order—

(a) it shall have power to borrow by way of temporary loan or overdraft any sums which it may temporarily require for the purpose of defraying expenses pending the receipt of revenues receivable by it in respect of the period of account in which those expenses are chargeable ; and

(b) its accounts shall be subject to audit by an auditor appointed by the Secretary of State, and the provisions of the Third Schedule to the Local Government (Scotland) Act, 1929, shall apply in relation to such audit as they apply in relation to the audit of the accounts of a county council or a town council.' " [988]

2. At the beginning of the Table in sub-paragraph (1) of paragraph 2 of Part I of the First Schedule, and of the Table in sub-paragraph (1) of paragraph 2 of the Second Schedule, there shall in each case be inserted, in the first column, the words " Chief constable of the county " and, in the second column, the words " Chief constable of the joint force ". [989]

3. In sub-paragraph (b) of paragraph 3 of Part II of the First Schedule, for the words " which he was receiving immediately before the date of amalgamation " there shall be substituted the words " which he would have been entitled to receive had he continued to be the chief constable of the constituent force ". [990]

4. In paragraph 4 of Part II of the First Schedule, after the word " done " where it secondly occurs there shall be inserted the words " or prevented some other thing being done ", and after the word " done " where it thirdly occurs there shall be inserted the words " or to prevent that other thing being done ". [991]

5. In paragraph 5 of Part II of the First Schedule after the word " area " in each place where it occurs there shall be inserted the words " or force ". [992]

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## THE POLICE AMALGAMATION (SURREY) ORDER, 1943

*S. R. & O., 1943, No. 273**January 28, 1943*

In pursuance of the powers conferred upon me by the Defence (Amalgamation of Police Forces) Regulations, 1942, I hereby order as follows :—

1. On the date when this Order comes into force the following existing police areas consisting of—

- (a) the Surrey county police area,
- (b) the non-county borough of Guildford, and
- (c) the non-county borough of Reigate,

shall be combined and become one police area, which shall be called the Surrey police area and have a single police force (hereafter in this Order referred to as the “joint force”). [993]

2. With the exception of the chief constable of the Guildford borough police force and the chief constable of the Reigate borough police force all persons who, immediately before this Order comes into force, are members of the Surrey county police force, the Guildford borough police force or the Reigate borough police force shall hereby be transferred to the joint force. [994]

3. The person holding the office of chief constable of Surrey immediately before this Order comes into force is hereby appointed first chief constable of the joint force. [995]

4.—(1) The joint force shall be maintained by the standing joint committee of Surrey (hereafter in this Order referred to as the “joint authority”).

(2) In addition to those members of the joint authority appointed by the quarter sessions for the county of Surrey or by the Surrey county council, the Guildford borough council and the Reigate borough council may each appoint as members of the joint authority two members of the borough council. [996]

5.—(1) The expenses of the joint force and of the joint authority shall be paid out of the Surrey county fund.

(2) The Guildford borough council and the Reigate borough council shall contribute to the Surrey county fund in accordance with the provisions of the Schedule hereto. [997]

6.—(1) The joint authority may take and use for the purposes of the joint force any property which, immediately before the date when this Order comes into force, was used or appropriated or intended for use for the purpose of the Guildford borough police or the Reigate borough police and may deal with any such property as if it belonged to the joint authority, so, however, that the joint authority shall not have power to sell, exchange, lease or charge any land taken by virtue of this paragraph.

(2) In default of agreement as to the property included in the description contained in paragraph (1) of this Article, the question shall be referred to the Secretary of State whose decision shall be final. [998]

7.—(1) As respects any contract for the supply of goods wholly or in part for police purposes entered into by the Guildford borough council or the

Reigate borough council before the date when this Order comes into force, the following provisions shall have effect, that is to say :—

- (a) any benefits of the contract outstanding on that date, and
- (b) any obligations of the contract the liability to discharge which has not accrued due before that date,

shall, in so far as they relate to police purposes, be transferred to the joint authority.

(2) For the purposes of paragraph (1) of this Article a contract shall be deemed to be a contract for the supply of goods for police purposes only to the extent that the liabilities thereunder fall to be discharged out of the police fund. [999]

8.—(1) This Order may be cited as the Police Amalgamation (Surrey) Order, 1943.

(2) This Order shall come into force on the first day of February, 1943. [1000]

\* \* \* \* \*

### SCHEDULE

#### CONTRIBUTIONS TO THE SURREY COUNTY FUND

1.—(1) In respect of each complete financial year each contributing authority shall pay into the Surrey county fund, in accordance with sub-paragraph (2) of this paragraph and paragraph 3 of this Schedule, a contribution equal to its appropriate proportion of the net police expenses of the Surrey county council in respect of that year.

(2) On the fifteenth day of each month in each complete financial year each contributing authority shall make a monthly interim payment into the Surrey county fund on account of the contribution due in respect of that year of an amount equal to one-twelfth of its appropriate proportion of the amount that the Surrey county treasurer has estimated would be the net police expenses of the Surrey county council during that financial year.

2.—(1) In respect of the period between the first day of February, 1943, and the thirty-first day of March, 1943, each contributing authority shall pay into the Surrey county fund, in accordance with sub-paragraph (2) of this paragraph and paragraph 3 of this Schedule, a contribution equal to its appropriate proportion of the net police expenses of the Surrey county council in respect of that period.

(2) On the fifteenth day of February, 1943, and the fifteenth day of March, 1943, each contributing authority shall make an interim payment into the Surrey county fund on account of the contribution due in respect of the period mentioned in sub-paragraph (1) of this paragraph of the amount set opposite to its name in the subjoined Table :—

TABLE

							£
Guildford borough council	..	..	..	..	..	..	1,025
Reigate borough council	..	..	..	..	..	..	1,050

3. Any difference either between the monthly interim payments made in respect of any complete financial year and the contribution due in respect of that year or between the total of the interim payments in respect of the period mentioned in sub-paragraph (1) of paragraph 2 of this Schedule and the contribution due in respect of that period shall be adjusted by a payment by or credit to the contributing authority which has made the payments at the interim payment date next after the contribution due in respect of that year or period has been ascertained.

4. In addition to the contributions due under paragraphs 1, 2 and 3 of this Schedule, the Guildford borough council shall, with all convenient speed, pay into the Surrey county fund any money received after this Order comes into force by way of interest on the investment of former police pension fund moneys.



5.—(1) The joint authority shall pay, in accordance with sub-paragraph (2) of this paragraph, to the Reigate borough council such sums as are required to meet any loan charges falling due on or after the date when this Order comes into force in respect of loans raised to meet expenditure for police purposes.

(2) The payments under sub-paragraph (1) of this paragraph shall be made within twenty-eight days after the receipt by the Surrey county treasurer of a statement on behalf of the Reigate borough council containing particulars of the loan charges in respect of which repayment is claimed.

6.—(1) In this Schedule the expressions—

“contributing authority” means each of the following, namely—  
the Guildford borough council  
the Reigate borough council; and

“financial year” means the period of twelve months ending on the thirty-first day of March.

(2) The appropriate proportion of each contributing authority for the purposes of paragraph 1 of this Schedule and sub-paragraph (1) of paragraph 2 of this Schedule shall be the percentage set opposite to its name in the subjoined Table of the net police expenses under this Order of the Surrey county council during the year or period in question :—

TABLE

							<i>Per cent.</i>
Guildford borough council	..	..	..	..	..	..	8
Reigate borough council	..	..	..	..	..	..	8.6

(3) The net police expenses of the Surrey county council for the purposes of paragraph 1 and sub-paragraph (1) of paragraph 2 of this Schedule in respect of any complete financial year or in respect of the period mentioned in the said sub-paragraph shall be the amount of its expenditure in consequence of this Order in respect of that year or period less all income (including Government grant) which is credited to the police fund in respect of that year or period other than sums paid under precepts and payments made under paragraphs 1, 2 and 3 of this Schedule to the county council. [1001]

## THE POLICE AMALGAMATION (CORNWALL) ORDER, 1943

*S. R. & O., 1943, No. 401*

*March 8, 1943*

In pursuance of the powers conferred upon me by the Defence (Amalgamation of Police Forces) Regulations, 1942, I hereby order as follows :—

1. On the date when this Order comes into force the following existing police areas consisting of—

- (a) the Cornwall county police area, and
- (b) the non-county borough of Penzance,

shall be combined and become one police area, which shall be called the Cornwall police area and have a single police force (hereinafter in this Order referred to as the “joint force”). [1002]

2. With the exception of the chief constable of the Penzance borough police force all persons who, immediately before this Order comes into force, are members of the Cornwall county police force or the Penzance borough police force shall hereby be transferred to the joint force. [1003]

3. The person holding the office of chief constable of Cornwall immediately before this Order comes into force is hereby appointed first chief constable of the joint force. [1004]

4.—(1) The joint force shall be maintained by the standing joint committee of Cornwall (hereafter in this Order referred to as the "joint authority").

(2) In addition to those members of the joint authority appointed by the quarter sessions for the county of Cornwall or by the Cornwall county council, the Penzance borough council may appoint as members of the joint authority three members of the borough council. [1005]

5.—(1) The expenses of the joint force and of the joint authority shall be paid out of the Cornwall county fund.

(2) The Penzance borough council shall contribute to the Cornwall county fund in accordance with the provisions of the Schedule hereto. [1006]

6.—(1) The joint authority may take and use for the purposes of the joint force any property which, immediately before the date when this Order comes into force, was used or appropriated or intended for use for the purpose of the Penzance borough police and may deal with any such property as if it belonged to the joint authority, so, however, that the joint authority shall not have power to sell, exchange, lease or charge any land taken by virtue of this paragraph.

(2) In default of agreement as to the property included in the description contained in paragraph (1) of this Article, the question shall be referred to the Secretary of State whose decision shall be final. [1007]

7.—(1) As respects any contract for the supply of goods wholly or in part for police purposes entered into by the Penzance borough council before the date when this Order comes into force, the following provisions shall have effect, that is to say:—

(a) any benefits of the contract outstanding on that date, and

(b) any obligations of the contract the liability to discharge which has not accrued due before that date,

shall, in so far as they relate to police purposes, be transferred to the joint authority.

(2) For the purposes of paragraph (1) of this Article a contract shall be deemed to be a contract for the supply of goods for police purposes only to the extent that the liabilities thereunder fall to be discharged out of the police fund. [1008]

8.—(1) This Order may be cited as the Police Amalgamation (Cornwall) Order, 1943.

(2) This Order shall come into force on the first day of April, 1943. [1009]

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## SCHEDULE

### CONTRIBUTIONS TO THE CORNWALL COUNTY FUND

1.—(1) In respect of each financial year the Penzance borough council shall pay into the Cornwall county fund, in accordance with sub-paragraphs (2) and (3) of this paragraph, a contribution equal to 6.536 per cent. of the net police expenses of the Cornwall county council in respect of that year.

(2) On the fifteenth day of each month in each financial year the Penzance borough council shall make a monthly interim payment into the Cornwall county fund on account of the contribution due in respect of that year of an amount equal to one-twelfth of 6.536 per cent. of the amount that the Cornwall county treasurer has estimated would be the net police expenses of the Cornwall county council in respect of that year.

(3) Any difference between the monthly interim payments made in respect of any financial year and the contribution due in respect of that year shall be adjusted by a payment by or credit to the Penzance borough council at the interim payment date next after the contribution due in respect of that year has been ascertained.

2. In addition to the contributions payable under paragraph 1 of this Schedule, the Penzance borough council shall, with all convenient speed, pay into the Cornwall county fund any money received after this Order comes into force by way of interest on the investment of former police pension fund moneys.

3.—(1) The joint authority shall pay, in accordance with sub-paragraph (2) of this paragraph, to the Penzance borough council such sums as are required to meet any loan charges falling due on or after the date when this Order comes into force in respect of loans raised to meet expenditure for police purposes.

(2) The payments under sub-paragraph (1) of this paragraph shall be made within twenty-eight days after the receipt by the Cornwall county treasurer of a statement on behalf of the Penzance borough council containing particulars of the loan charges in respect of which repayment is claimed.

4.—(1) In this Schedule the expression “financial year” means the period of twelve months ending on the thirty-first day of March.

(2) For the purposes of this Schedule the net police expenses of the Cornwall county council in respect of any financial year shall be the amount of its expenditure in consequence of this Order in respect of that year less all income (including Government grant) which is credited to the police fund in respect of that year other than sums paid under precepts and payments made under paragraph 1 of this Schedule to the county council. [1010]

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## THE POLICE AMALGAMATION (SUSSEX) ORDER, 1943

*S. R. & O., 1943, No. 428*

*March 16, 1943*

In pursuance of the powers conferred upon me by the Defence (Amalgamation of Police Forces) Regulations, 1942, I hereby order as follows:—

1. On the date when this Order comes into force the following existing police areas consisting of—

- (a) the East Sussex county police area,
- (b) the West Sussex county police area,
- (c) the county borough of Brighton,
- (d) the county borough of Eastbourne,
- (e) the county borough of Hastings, and
- (f) the non-county borough of Hove.

shall be combined and become one police area, which shall be called the Sussex police area, and there shall be established for the Sussex police area a single police force which shall be called the Sussex police force. [1011]

2. With the exception of the chief constable of East Sussex, the chief constable of West Sussex, the chief constable of the Brighton borough police force, the chief constable of the Eastbourne borough police force and the chief constable of the Hastings borough police force all persons who, immediately before this Order comes into force are members of any of the following police forces, namely—East Sussex county police, West Sussex county police, Brighton borough police, Eastbourne borough police, Hastings borough police, Hove borough police, shall hereby be transferred to the Sussex police force. [1012]

3. Major John Frederick Ferguson, a Deputy Assistant Commissioner of the Metropolitan Police, is hereby appointed first chief constable of the Sussex police force. [1013]

4. The Sussex police force shall be maintained by an authority which shall be called the Sussex police authority and shall be constituted in accordance with the provisions of the First Schedule hereto. [1014]

5.—(1) The clerk of the Sussex police authority shall be such person as that authority may from time to time appoint, and, until such an appointment is made, Hubert Sinclair Martin, Esquire, LL.B., Clerk of the Peace of East Sussex, shall be clerk of that authority.

(2) Any person appointed from time to time by the Sussex police authority to be deputy clerk of that authority for the purpose of acting in the place of the clerk whenever the office is vacant or the clerk is, for any reason, unable to act shall, when acting as deputy clerk and subject to the terms of his appointment, have all the functions of the clerk. [1015]

6. The expenses of the Sussex police authority shall be paid out of a fund to be called the Sussex police fund, which shall be established and administered in accordance with the provisions of the Second Schedule hereto. [1016]

7.—(1) The treasurer of the Sussex police fund shall be such person as the Sussex police authority may from time to time appoint, and, until such an appointment is made, Alfred Major Jones, Esquire, A.S.A.A., County Treasurer of East Sussex, shall be treasurer of that fund.

(2) Any person appointed from time to time by the Sussex police authority to be deputy treasurer of the Sussex police fund for the purpose of acting in the place of the treasurer whenever the office is vacant or the treasurer is, for any reason, unable to act shall, when acting as deputy treasurer and subject to the terms of his appointment, have all the functions of the treasurer. [1017]

8.—(1) The Sussex police authority may take and use for the purposes of the Sussex police force any property which, immediately before this Order comes into force, was used or appropriated or intended for use for the purpose of the East Sussex county police, the West Sussex county police, the Brighton borough police, the Eastbourne borough police, the Hastings borough police or the Hove borough police, except the property described in the Third Schedule hereto, and may deal with such property as if it belonged to the Sussex police authority, so, however, that the Sussex police authority shall not have power to sell, exchange, lease or charge any land taken by virtue of this paragraph.

(2) In default of agreement as to the property included in the description contained in paragraph (1) of this Article the question shall be referred to the Secretary of State whose decision shall be final. [1018]

9.—(1) As respects any contract for the supply of goods wholly or in part for police purposes entered into by any contributing authority before the date when this Order comes into force, the following provisions shall have effect, that is to say :—

- (a) any benefits of the contract outstanding on that date, and
- (b) any obligations of the contract the liability to discharge which has not accrued due before that date,

shall, in so far as they relate to police purposes, be transferred to the Sussex police authority.

(2) For the purposes of paragraph (1) of this Article a contract shall be deemed to be a contract for the supply of goods for police purposes only

to the extent that the liabilities thereunder fall to be discharged out of the police fund. [1019]

10.—(1) The Sussex police authority may delegate, subject to any directions given at any time by the Secretary of State, any of its functions to any one or more of the following, that is to say—the East Sussex standing joint committee, the West Sussex standing joint committee, the Brighton watch committee, the Eastbourne watch committee, the Hastings watch committee and the Hove watch committee.

(2) The Sussex police authority and any one or more of the contributing authorities may make arrangements, subject to any directions given at any time by the Secretary of State, for the use by the Sussex police authority of the services of the officers and servants of the contributing authority with which the arrangements are made, and for the making of contracts and payments on behalf of the Sussex police authority by that contributing authority. [1020]

11. In this Order the expression “contributing authority” means each of the following, namely :—

the East Sussex county council  
the West Sussex county council  
the Brighton borough council  
the Eastbourne borough council  
the Hastings borough council  
the Hove borough council. [1021]

12.—(1) This Order may be cited as the Police Amalgamation (Sussex) Order, 1943.

2. This Order shall come into force on the first day of April, 1943. [1022]

\* \* \* \* \*

### FIRST SCHEDULE

#### THE SUSSEX POLICE AUTHORITY

1.—(1) The authority shall consist of twenty-eight members.

(2) Each of the committees or councils set out in the subjoined Table shall from time to time appoint from among its members the number of persons set opposite to its name in that Table to be members of the authority :—

TABLE					
East Sussex standing joint committee	..	..	..	..	7
West Sussex standing joint committee	..	..	..	..	7
Brighton borough council	..	..	..	..	6
Eastbourne borough council	..	..	..	..	3
Hastings borough council	..	..	..	..	3
Hove borough council	..	..	..	..	2

Provided that any such appointments made by any of the said committees or councils before this Order comes into force shall have effect as if they had been made immediately after this Order comes into force.

(3) Members of the authority shall be appointed annually and shall hold office from the date that their appointment is notified to the clerk of the authority or from the first day of April in each year, whichever is the later, till the following thirty-first day of March.

(4) A member of the authority who ceases to be a member of the committee or council by which he was appointed shall thereupon cease to be a member of the authority unless, on or before the date on which he ceased to be a member

of the committee or council, as the case may be, he has again been appointed or elected a member of that committee or council.

(5) Any casual vacancy in the membership of the authority shall be filled by the appointment by the appropriate committee or council of a new member, and the member so appointed shall hold office as a member of the authority till the following thirty-first day of March.

2.—(1) The authority, from among its members, shall elect a chairman and may elect a vice-chairman.

(2) The authority may, by standing orders, provide that the chairman and, in the absence of the chairman, the vice-chairman, shall have a second or casting vote.

3.—(1) At a meeting of the authority seven or such greater number as the authority may, by standing orders provide, shall be a quorum.

(2) All acts of the authority and all questions coming or arising before the authority shall be done and decided by a majority of the members of the authority present and voting thereon at a meeting of the authority.

4. The acts of the authority shall be valid notwithstanding any vacancy among the members thereof and notwithstanding any defect or default in the appointment of any persons to be members thereof.

5. In this Schedule the expression "the authority" means the Sussex police authority. [1023]

## SECOND SCHEDULE

### THE SUSSEX POLICE FUND

1.—(1) In respect of each financial year each contributing authority shall pay into the Sussex police fund, in accordance with sub-paragraphs (2) and (3) of this paragraph, a contribution equal to its appropriate proportion of that part of the net expenses of the Sussex police authority in respect of that year which remains after all contributions under sub-paragraph (b) of paragraph 2 of this Schedule have been taken into account.

(2) On the first day of each month in each financial year each contributing authority shall make a monthly interim payment into the Sussex police fund on account of its contribution payable under sub-paragraph (1) of this paragraph in respect of that year of an amount equal to one-twelfth of the amount of that contribution as estimated by the treasurer of the Sussex police fund :

Provided that the treasurer of the Sussex police fund may from time to time revise his said estimate and the monthly interim payments payable during that year after all the contributing authorities have been notified of the revision shall be so increased or reduced as to adjust the difference.

(3) Any difference between the total of the monthly interim payments made in respect of any financial year and the contribution payable in respect of that year shall be adjusted at the interim payment date next after the date on which the contribution payable in respect of that year has been ascertained, by a payment by or credit to the contributing authority which has made the payments.

2. In addition to the contributions payable under paragraph 1 of this Schedule, each contributing authority—

(a) with all convenient speed shall pay into the Sussex police fund any income, not being income received from the investment of financial adjustment funds, which has not been brought into account before this Order comes into force, and, but for the operation of this Order, would have been credited to its police account ;

(b) shall pay into the Sussex police fund contributions equal to one half of the sums payable to that contributing authority under paragraph 3 of this Schedule, as soon as may be after such sums have been paid to it.

3.—(1) The Sussex police authority shall pay, in accordance with sub-paragraph (2) of this paragraph, to each contributing authority such sums as are required to meet any loan charges payable by the contributing authority and falling due on or after the date when this Order comes into force in respect of loans raised to meet expenditure for police purposes.

(2) Each payment under sub-paragraph (1) of this paragraph shall be made within twenty-eight days after the receipt by the treasurer of the Sussex police fund of a statement on behalf of the contributing authority to which the payment is to be made containing particulars of the loan charges in respect of which a payment under sub-paragraph (1) of this paragraph is claimed.

4. The Sussex police authority may defray, as part of the expenses of that authority, any expenses necessarily incurred by members of the authority or of any committee thereof in travelling to and from meetings of the authority or committee or in travelling by direction of the authority or committee for the purpose of carrying out any inspection necessary for the discharge of the function of the authority or committee.

5.—(1) In this Schedule the following expressions have the meanings hereby respectively assigned to them, that is to say :—

“ appropriate proportion ” means, in the case of each contributing authority, the proportion set opposite to its name in the subjoined Table :—

TABLE						Per cent.
East Sussex county council	..	..	..	..	..	26
West Sussex county council	..	..	..	..	..	27
Brighton borough council	..	..	..	..	..	19
Eastbourne borough council	..	..	..	..	..	10
Hastings borough council	..	..	..	..	..	10
Hove borough council	..	..	..	..	..	8

“ financial year ” means the period of twelve months ending on the thirty-first day of March.

(2) For the purposes of this Schedule the net expenses of the Sussex police authority in respect of any financial year shall be the amount of its expenditure in consequence of this Order in respect of that year less all income (including Government grant) which is credited to the Sussex police fund in respect of that year other than contributions payable under paragraph 1 and sub-paragraph (b) of paragraph 2 of this Schedule into the Sussex police fund. [1024]

### THIRD SCHEDULE

#### PROPERTY NOT TAKEN BY THE SUSSEX POLICE AUTHORITY

Any chattels purchased by any contributing authority which, when this Order comes into force, have not been charged to the police fund of that authority. [1025]

### THE POLICE AMALGAMATION (WILTS) ORDER, 1943

*S. R. & O., 1943, No. 431*

*March 16, 1943*

In pursuance of the powers conferred upon me by the Defence (Amalgamation of Police Forces) Regulations, 1942, I hereby order as follows :—

1. On the date when this Order comes into force the following existing police areas consisting of—

- (a) the Wilts county police area, and
- (b) the city of New Sarum,

shall be combined and become one police area, which shall be called the Wilts police area and have a single police force (hereafter in this Order referred to as the “ joint force ”). [1026]

2. All persons who, immediately before this Order comes into force, are members of the Wilts county police force or the New Sarum city police force shall hereby be transferred to the joint force. [1027]



3. The person holding the office of chief constable of Wilts immediately before this Order comes into force is hereby appointed first chief constable of the joint force. [1028]

4.—(1) The joint force shall be maintained by the standing joint committee of Wilts (hereafter in this Order referred to as the "joint authority").

(2) In addition to those members of the joint authority appointed by the quarter sessions for the county of Wilts or by the Wilts county council, the New Sarum city council may appoint as members of the joint authority two members of the city council. [1029]

5.—(1) The expenses of the joint force and of the joint authority shall be paid out of the Wilts county fund.

(2) The New Sarum city council shall contribute to the Wilts county fund in accordance with the provisions of the Schedule hereto. [1030]

6.—(1) The joint authority may take and use for the purposes of the joint force any property which, immediately before this Order comes into force, was used or appropriated or intended for use for the purpose of the New Sarum city police and may deal with any such property as if it belonged to the joint authority, so, however that the joint authority shall not have power to sell, exchange, lease or charge any land taken by virtue of this paragraph.

(2) In default of agreement as to the property included in the description contained in paragraph (1) of this Article, the question shall be referred to the Secretary of State whose decision shall be final. [1031]

7.—(1) As respects any contract for the supply of goods wholly or in part for police purposes entered into by the New Sarum city council before the date when this Order comes into force, the following provisions shall have effect, that is to say :—

- (a) any benefits of the contract outstanding on that date, and
- (b) any obligations of the contract the liability to discharge which has not accrued due before that date,

shall, in so far as they relate to police purposes, be transferred to the joint authority.

(2) For the purposes of paragraph (1) of this Article a contract shall be deemed to be a contract for the supply of goods for police purposes only to the extent that the liabilities thereunder fall to be discharged out of the police fund. [1032]

8.—(1) This Order may be cited as the Police Amalgamation (Wilts) Order, 1943.

(2) This Order shall come into force on the first day of April, 1943. [1033]

\* \* \* \* \*

## SCHEDULE

### CONTRIBUTIONS TO THE WILTS COUNTY FUND

1.—(1) In respect of each financial year the New Sarum city council shall pay into the Wilts county fund, in accordance with sub-paragraphs (2) and (3) of this paragraph, a contribution equal to 11.5 per cent. of the net police expenses of the Wilts county council in respect of that year.

(2) On the thirty-first day of May, the fifteenth day of July, the thirty-first day of August, the thirtieth day of November, the fifteenth day of January and the twenty-sixth day of February in each financial year the New Sarum city council shall make an interim payment into the Wilts county fund on account of the contribution payable under sub-paragraph (1) of this paragraph in respect of that year of an amount equal to one-sixth of 11.5 per cent. of the amount of that contribution as estimated by the Wilts county treasurer.

(3) Any difference between the interim payments made in respect of any financial year and the contribution due in respect of that year shall be adjusted by a payment by or credit to the New Sarum city council at the interim payment date next after the contribution due in respect of that year has been ascertained.

2. In addition to the contributions payable under paragraph 1 of this Schedule, the New Sarum city council shall, with all convenient speed, pay into the Wilts county fund any money received after this Order comes into force by way of interest on the investment of former police pension fund moneys.

3.—(1) The joint authority shall pay, in accordance with sub-paragraph (2) of this paragraph, to the New Sarum city council such sums as are required to meet any loan charges falling due on or after the date when this Order comes into force in respect of loans raised to meet expenditure for police purposes.

(2) The payments under sub-paragraph (1) of this paragraph shall be made within twenty-eight days after the receipt by the Wilts county treasurer of a statement on behalf of the New Sarum city council containing particulars of the loan charges in respect of which repayment is claimed.

(3) Until an agreement dated the thirty-first day of July, 1939, and made between the trustees for the time being of the church known as the Church Street Methodist Church in the city of New Sarum of the one part and the mayor, aldermen and citizens of the said city of the other part for the tenancy of premises forming part of the Church Street Methodist Church is terminated, the joint authority shall pay on the twenty-fifth day of March in each financial year to the New Sarum city council the sum of £88.

4.—(1) In this Schedule the expression "financial year" means the period of twelve months ending on the thirty-first day of March.

(2) For the purposes of this Schedule the net police expenses of the Wilts county council in respect of any financial year shall be the amount of its expenditure in consequence of this Order in respect of that year less all income (including Government grant) which is credited to the police fund in respect of that year other than sums paid under precepts and payments made under paragraph 1 of this Schedule to the county council. [1034]

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## THE POLICE AMALGAMATION (KENT) ORDER, 1943

*S. R. & O., 1943, No. 454*

*March 22, 1943*

In pursuance of the powers conferred upon me by the Defence (Amalgamation of Police Forces) Regulations, 1942, I hereby order as follows:—

1. On the date when this Order comes into force the following existing police areas consisting of—

- (a) the Kent county police area,
- (b) the county borough of Canterbury,
- (c) the non-county borough of Dover,
- (d) the non-county borough of Folkestone,
- (e) the non-county borough of Gravesend,
- (f) the non-county borough of Maidstone,
- (g) the non-county borough of Margate,
- (h) the non-county borough of Ramsgate,
- (i) the non-county borough of Rochester, and
- (j) the non-county borough of Tunbridge Wells,

shall be combined and become one police area, which shall be called the Kent police area and have a single police force (hereafter in this Order referred to as the "joint force"). [1035]

2. With the exception of the chief constable of each of the police forces of the following boroughs, namely—Canterbury, Dover, Folkestone, Gravesend, Margate, Ramsgate, Rochester, Tunbridge Wells, all persons who, immediately before this Order comes into force, are members of the police forces of any of the said boroughs, of the Maidstone borough police force or of the Kent county police force shall hereby be transferred to the joint force. [1036]

3. The person holding the office of chief constable of Kent immediately before this Order comes into force is hereby appointed first chief constable of the joint force. [1037]

4.—(1) The joint force shall be maintained by the standing joint committee of Kent (hereafter in this Order referred to as the “joint authority”).

(2) In addition to those members of the joint authority appointed by the quarter sessions for the county of Kent or by the Kent county council, each contributing authority may from time to time appoint as a member of the joint authority one member of the contributing authority :

Provided that any such appointment made by any of the contributing authorities before this Order comes into force shall have effect as if it had been made immediately after this Order comes into force. [1038]

5.—(1) The expenses of the joint force and of the joint authority shall be paid out of the Kent county fund.

(2) Each contributing authority shall contribute to the Kent county fund in accordance with the provisions of the First Schedule hereto. [1039]

6.—(1) The joint authority may take and use for the purposes of the joint force any property which, immediately before this Order comes into force, was used or appropriated or intended for use for the purpose of the police force of any of the following boroughs, namely—Canterbury, Dover, Folkestone, Gravesend, Maidstone, Margate, Ramsgate, Rochester, Tunbridge Wells, except the property described in the Second Schedule hereto, and may deal with any such property as if it belonged to the joint authority, so, however, that the joint authority shall not have power to sell, exchange, lease or charge any land taken by virtue of this paragraph.

(2) In default of agreement as to the property included in the description contained in paragraph (1) of this Article, the question shall be referred to the Secretary of State whose decision shall be final. [1040]

7.—(1) As respects any contract for the supply of goods wholly or in part for police purposes entered into by any contributing authority before the date when this Order comes into force, the following provisions shall have effect, that is to say :—

- (a) any benefits of the contract outstanding on that date, and
- (b) any obligations of the contract the liability to discharge which has not accrued due before that date,

shall, in so far as they relate to police purposes, be transferred to the joint authority.

(2) For the purposes of paragraph (1) of this Article a contract shall be deemed to be a contract for the supply of goods for police purposes only to the extent that the liabilities thereunder fall to be discharged out of the police fund. [1041]

8.—(1) The joint authority may delegate, subject to any directions given at any time by the Secretary of State, any of its functions to any one or more of the following, that is to say—the Canterbury watch committee, the Dover watch committee, the Folkestone watch committee, the Gravesend watch committee, the Maidstone watch committee, the Margate watch committee,

the Ramsgate watch committee, the Rochester watch committee, and the Tunbridge Wells watch committee.

(2) The joint authority and any one or more of the contributing authorities may make arrangements, subject to any directions given at any time by the Secretary of State, for the use by the joint authority of the services of the officers and servants of the contributing authority with which the arrangements are made, and for the making of contracts and payments on behalf of the joint authority by that contributing authority. [1042]

9. In this Order the expression "contributing authority" means each of the following, namely:—

the Canterbury borough council  
the Dover borough council  
the Folkestone borough council  
the Gravesend borough council  
the Maidstone borough council  
the Margate borough council  
the Ramsgate borough council  
the Rochester borough council  
the Tunbridge Wells borough council. [1043]

10.—(1) This Order may be cited as the Police Amalgamation (Kent) Order, 1943.

(2) This Order shall come into force on the first day of April, 1943. [1044]

\* \* \* \* \*

## FIRST SCHEDULE

### CONTRIBUTIONS TO THE KENT COUNTY FUND

1.—(1) In respect of each financial year each contributing authority shall pay into the Kent county fund, in accordance with sub-paragraphs (2) and (3) of this paragraph, a contribution equal to its appropriate proportion of the net police expenses of the Kent county council in respect of that year.

(2) On the fifteenth day of each month in each financial year each contributing authority shall make a monthly interim payment into the Kent county fund on account of its contribution payable under sub-paragraph (1) of this paragraph in respect of that year of an amount equal to one-twelfth of the amount of that contribution as estimated by the Kent county accountant.

(3) Any difference between the total of the monthly interim payments made in respect of any financial year and the contribution payable in respect of that year shall be adjusted at the interim payment date next after the contribution payable in respect of that year has been ascertained, by a payment by or credit to the contributing authority which has made the payments.

2. In addition to the contributions payable under paragraph 1 of this Schedule each contributing authority shall, with all convenient speed, pay into the Kent county fund any money received after this Order comes into force by way of interest on the investment of former police pension fund moneys which has not been brought into account before this Order comes into force.

3.—(1) The joint authority shall pay, in accordance with sub-paragraph (2) of this paragraph, to each contributing authority such sums as are required to meet any loan charges payable by the contributing authority and falling due on or after the date when this Order comes into force in respect of loans raised to meet expenditure for police purposes.

(2) Each payment under sub-paragraph (1) of this paragraph shall be made within twenty-eight days after the date of the receipt by the Kent county accountant of a statement on behalf of the contributing authority to which the payment is to be made containing particulars of the loan charges falling due within thirty-five days from the said date in respect of which a payment under sub-paragraph (1) of this paragraph is claimed.

4.—(1) In this Schedule the following expressions have the meanings hereby respectively assigned to them, that is to say :—

“ appropriate proportion ” means, in the case of each contributing authority, the proportion set opposite to its name in the subjoined Table :—

TABLE

						<i>Per cent.</i>
Canterbury borough council	..	..	..	..	..	2.53
Dover borough council	..	..	..	..	..	4.85
Folkestone borough council	..	..	..	..	..	5.22
Gravesend borough council	..	..	..	..	..	3.70
Maidstone borough council	..	..	..	..	..	3.91
Margate borough council	..	..	..	..	..	4.82
Ramsgate borough council	..	..	..	..	..	4.78
Rochester borough council	..	..	..	..	..	4.20
Tunbridge Wells borough council	..	..	..	..	..	4.65

“ financial year ” means the period of twelve months ending on the thirty-first day of March.

(2) For the purposes of this Schedule the net police expenses of the Kent county council in respect of any financial year shall be the amount of its expenditure in consequence of this Order in respect of that year less all income (including Government grant) which is credited to the police fund in respect of that year other than sums paid under precepts and contributions payable under paragraph 1 of this Schedule. [1045]

## SECOND SCHEDULE

### PROPERTY NOT TAKEN BY THE JOINT AUTHORITY

#### CHATELS

Any chattels purchased by any contributing authority which, when this Order comes into force, have not been charged to the police fund of that authority.

#### LAND

##### *Dover*

In the police station at Dover, the flat situate on the south-west side of the building and wholly contained on the first floor thereof and the separate entrance thereto on the south-west side of the building.

##### *Maidstone*

All that building and premises used as civil defence report and control centre situate on the west side of and adjoining and communicating with the police station building in Palace Avenue, Maidstone, having a frontage to Palace Avenue aforesaid of twenty-six feet six inches and a depth therefrom including the forecourt of seventy-two feet. [1046]

## THE POLICE AMALGAMATION (HAMPSHIRE) ORDER, 1943

*S. R. & O., 1943, No. 468*

*March 24, 1943*

In pursuance of the powers conferred upon me by the Defence (Amalgamation of Police Forces) Regulations, 1942, I hereby order as follows :—

1. On the date when this Order comes into force the following existing police areas consisting of—

- (a) the area of the county police of the county of Southampton,
- (b) the Isle of Wight county police area, and
- (c) the city of Winchester,

shall be combined and become one police area, which shall be called the Hampshire police area, and have a single police force which shall be called the Hampshire joint police force. [1047]

2. With the exception of the chief constable of the Isle of Wight and the head constable of the Winchester city police force all persons who, immediately before this Order comes into force, are members of the county police of the county of Southampton, the Isle of Wight county police or the Winchester city police shall hereby be transferred to the Hampshire joint police force. [1048]

3. The person holding the office of chief constable of the county of Southampton immediately before this Order comes into force is hereby appointed first chief constable of the Hampshire joint police force. [1049]

4. The police authority for the maintenance of the Hampshire joint police force shall be the standing joint committee of the county of Southampton to which may be added not more than six members of the standing joint committee of the Isle of Wight appointed from time to time by the latter committee, not more than four members of the Bournemouth borough council appointed from time to time by that council and not more than three members of the Winchester city council appointed from time to time by the latter council (the first named standing joint committee with or without any such additional members being hereafter in this Order referred to as the "joint authority"). [1050]

5.—(1) The expenses of the Hampshire joint police force and of the joint authority shall be paid out of the county fund of the county of Southampton.

(2) The Bournemouth borough council and each contributing authority shall contribute to the county fund of the county of Southampton in accordance with the provisions of the Schedule hereto. [1051]

6.—(1) The joint authority may take and use for the purposes of the Hampshire joint police force any property which, immediately before this Order comes into force, was used or appropriated or intended for use for the purpose of the Isle of Wight county police or the Winchester city police and may deal with any such property as if it belonged to the joint authority, so, however, that the joint authority shall not have power to sell, exchange, lease or charge any land taken by virtue of this paragraph.

(2) In default of agreement as to the property included in the description contained in paragraph (1) of this Article, the question shall be referred to the Secretary of State whose decision shall be final. [1052]

7.—(1) As respects any contract for the supply of goods wholly or in part for police purposes entered into by the standing joint committee of the Isle of Wight or the Winchester city council before the date when this Order comes into force, the following provisions shall have effect, that is to say:—

(a) any benefits of the contract outstanding on that date, and

(b) any obligations of the contract the liability to discharge which has not accrued due before that date,

shall, in so far as they relate to police purposes, be transferred to the joint authority.

(2) For the purposes of paragraph (1) of this Article a contract shall be deemed to be a contract for the supply of goods for police purposes only to the extent that the liabilities thereunder fall to be discharged out of the police fund. [1053]

8.—(1) The joint authority may delegate, subject to any directions given at any time by the Secretary of State, any of its function to the standing

joint committee of the Isle of Wight and to the Winchester watch committee respectively.

(2) The joint authority may make arrangements with the Isle of Wight county council and the Winchester city council, subject to any directions given at any time by the Secretary of State, for the use by the authority of the services of the officers and servants of the council with which the arrangements are made, and for the making of contracts and payments on behalf of the authority by that council. [1054]

9. In this Order the expression "contributing authority" means each of the following, namely :—

the Isle of Wight county council

the Winchester city council. [1055]

10.—(1) This Order may be cited as the Police Amalgamation (Hampshire) Order, 1943.

(2) This Order shall come into force on the first day of April, 1943. [1056]

\* \* \* \* \*

### SCHEDULE

#### CONTRIBUTIONS TO THE COUNTY FUND OF THE COUNTY OF SOUTHAMPTON

##### *Isle of Wight and Winchester*

1.—(1) In respect of each financial year each contributory authority shall pay into the county fund, in accordance with sub-paragraphs (2), (3) and (4) of this paragraph, a contribution equal to its appropriate proportion of the net police expenses of the county council in respect of that year.

(2) On the fifteenth day of each month in each financial year, other than the year ending on the thirty-first day of March, 1944, each contributing authority shall make a monthly interim payment into the county fund on account of its contribution payable under the foregoing sub-paragraph in respect of that year of an amount equal to one-twelfth of that contribution as estimated by the county treasurer.

(3) On the fifteenth day of each month in the financial year ending on the thirty-first day of March, 1944, each contributing authority shall make a monthly interim payment into the county fund on account of the contribution due in respect of that year under sub-paragraph (1) of this paragraph of the amount set opposite to its name in the subjoined Table :—

*Table*

						£
Isle of Wight county council	..	..	..	..	..	1,770
Winchester city council	..	..	..	..	..	730

(4) Any difference between the total of the monthly interim payments made in respect of any financial year and the contribution payable in respect of that year shall be adjusted at the interim payment date next after the contribution payable in respect of that year has been ascertained, by a payment by or credit to the contributing authority which has made the payments.

2. In addition to the contributions payable under paragraph 1 of this Schedule, the Winchester city council shall, with all convenient speed, pay into the county fund any money received after this Order comes into force by way of interest on the investment of former police pension fund moneys which has not been brought into account before this Order comes into force.

3.—(1) The joint authority shall pay, in accordance with sub-paragraph (2) of this paragraph, to each contributing authority such sums as are required to meet any loan charges payable by the contributing authority and falling due on or after the date when this Order comes into force in respect of loans raised to meet expenditure for police purposes.



(2) Each payment under sub-paragraph (1) of this paragraph shall be made within twenty-eight days after the receipt by the county treasurer of a statement on behalf of the contributing authority to which the payment is to be made containing particulars of the loan charges in respect of which a payment under sub-paragraph (1) of this paragraph is claimed.

#### *Bournemouth*

4.—(1) In respect of each financial year the Bournemouth borough council shall pay into the county fund, in accordance with sub-paragraphs (2) and (3) of this paragraph, a contribution equal to the actual cost of the police in the borough, less any Government grant attributable to that cost, together with a contribution to overhead police expenditure common to the borough and to the remainder or part of the remainder of the Hampshire police area proportionate to the average number of constables stationed in the borough as compared with the total force in the area to which that overhead expenditure relates, less any Government grant attributable to that expenditure.

(2) On the first day of each of the following months, namely—June, September, December and March, in each financial year, the Bournemouth borough council shall make a quarterly interim payment of £6,000 into the county fund on account of its contribution payable under the foregoing sub-paragraph in respect of that year.

(3) Any difference between the total of the quarterly interim payments made in respect of any financial year and the contribution payable in respect of that year shall be adjusted by a payment by or credit to the Bournemouth borough council within one calendar month after the said council has received an account of the contribution payable under sub-paragraph (1) of this paragraph.

#### *Definitions*

5.—(1) In this Schedule the following expressions have the meanings hereby respectively assigned to them, that is to say :—

“ appropriate proportion ” means, in the case of each contributing authority, the proportion set opposite to its name in the subjoined Table :—

*Table*

						<i>Per cent.</i>
Isle of Wight county council	..	..	..	..	..	14.79
Winchester city council	..	..	..	..	..	6.18

“ county council ”, “ county fund ” and “ county treasurer ” mean respectively the county council of the county of Southampton, and the county fund and the county treasurer of that county ; and

“ financial year ” means the period of twelve months ending on the thirty-first day of March.

(2) For the purposes of this Schedule the net police expenses of the county council in respect of any financial year shall be the amount of its expenditure in consequence of this Order in respect of that year less all income (including Government grant) which is credited to the police fund in respect of that year other than the sums paid under precepts and contributions payable under paragraph 1 of this Schedule. [1057]

## THE POLICE REGULATIONS OF MARCH 5, 1943

*S. R. & O., 1943, No. 408*

I, the Right Honourable Herbert Morrison, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred on me by section 4 of the Police Act, 1919, hereby make the following Regulations amending the Police Regulations \* :—

\* Words altered or added are printed in italics.

1. Paragraph (1) of Regulation 3 is hereby revoked. [1058]

2. For Regulations 53 to 63A inclusive the following Regulations shall be substituted :—

*“(b) Grant of Special Increments of Pay for Constables.*

53. *Subject to Regulation 60, a constable who has passed the qualifying examinations for promotion in police duties and educational subjects, may, at any time after he has served for five years, be granted a special increment in his scale of pay if the Chief Officer of Police is satisfied that he has shown special zeal, intelligence and proficiency in the performance of his duties and that he is well conducted.*

54. *A constable who is in receipt of a special increment under Regulation 53, may, at any time after he has served for one year from the date of the grant of the special increment, be granted a second special increment in his scale of pay if the Chief Officer of Police is satisfied that he continues to show special zeal, intelligence and proficiency in the performance of his duties and to be well conducted.*

55. *A constable who has been granted a special increment or increments shall be paid at the rate at which he would be paid on the scales in Regulation 48, if he had been appointed, in the case of a grant of one special increment, one year and, in the case of a grant of two special increments, two years before he was appointed.*

*(c) Grant of Additional Increments of Pay for Constables.*

56. *Subject to Regulation 60, a constable may, at any time after he has served for seventeen years or, although he has not served for seventeen years, at any time after he has been granted a special increment or increments and has served at the maximum rate of pay of 90s. a week for seven years, if he has been in receipt of pay according to Scale A, or for five years, if he has been in receipt of pay according to Scale B, be granted an additional increment of 2s. 6d. a week in his pay if the Chief Officer of Police is satisfied that he has shown zeal and proficiency in the performance of his duties and that he is well conducted.*

57. *A constable who is in receipt of an additional increment may, at any time after he has served for five years from the date of the grant of the additional increment, be granted a second additional increment of 2s. 6d. a week in his pay if the Chief Officer of Police is satisfied that he continues to show zeal and proficiency in the performance of his duties and to be well conducted :*

*Provided that a constable who has previously held a higher rank and has served for twenty-two years may be granted a second additional increment after he has served for one year, instead of five years, from the date of the grant of the additional increment.*

58.—(1) *As soon as a constable has served for the appropriate qualifying period under Regulation 56 or Regulation 57, the Chief Officer of Police shall consider whether an additional increment or, as the case may be, a second additional increment should be granted to him.*

(2) *A constable who has acquired a right under paragraph (1) of this Regulation to have the question considered whether a grant should be made to him, may apply to the Chief Officer of Police, as soon as may be after the end of each period of one or more complete years from the date when he acquired the right, again to consider the question, and it shall accordingly again be considered.*

(3) *A constable from whom an additional increment or increments has or have been withdrawn under Regulation 59 may apply, to the Chief Officer of Police, at the end of each period of one or more complete years from the date of the withdrawal, to consider whether an additional increment should be granted to him, and it shall accordingly be considered.*

(4) *If, on consideration under paragraph (1) or (2) of this Regulation, no grant is made the constable shall, if he applies for the information, be informed in writing why no grant was made.*

(d) *General Provisions as to Grant and Withdrawal of Special and Additional Increments of Pay for Constables.*

59. *If the Chief Officer of Police is of opinion—*

- (a) *that a constable in receipt of a special increment or increments is not showing special zeal, intelligence or proficiency in the performance of his duties or that he is not well conducted, or*
- (b) *that a constable in receipt of an additional increment or increments is not showing zeal or proficiency in the performance of his duties or that he is not well conducted,*

*the constable shall be given a written warning of the opinion of the Chief Officer of Police and if, at the end of a period of two months from the date of the warning or of such longer period as may be specified in the warning, the Chief Officer of Police is still of the same opinion, the increment or increments shall be withdrawn :*

*Provided that if, after the latest grant to the constable under Regulation 53, 54, 56 or 57—*

- (a) *the constable is guilty of any default for which he is punished by a fine of 20s.\* or any greater punishment,*
- (b) *the constable is guilty, during any period of twelve months, of two defaults for which he is punished by punishments other than cautions, or*
- (c) *the constable is guilty of more than three defaults for which he is punished by punishments other than cautions,*

*the increment or increments may be withdrawn without warning.*

60. *No special or additional increment shall be granted to a constable from whom an increment or increments has or have been withdrawn under Regulation 59 until a period of a year has elapsed from the date of the withdrawal.*

61. *The grant or withdrawal of any increment under Regulations 53 to 60 inclusive to or from a constable in a borough police force shall be subject to confirmation by the Watch Committee.” [1059]*

3. Regulation 65 shall be amended as follows :—

- (i) *Paragraphs (i) and (ii) shall be renumbered (1) and (2) respectively.*
- (ii) *For paragraph (iii) there shall be substituted the following paragraphs :—*

*“(3) A married man whose wife is living apart from him and who regularly makes periodic payments to her or for her benefit may be granted an additional allowance of a sum equal to the amount (if any) by which the allowance, which would for the time being be payable to him under paragraph (2) of this Regulation if his wife were living with him and he were paying the rent and rates which he was paying immediately before his wife commenced to live apart from him, exceeds either the allowance which is being paid to him under the said paragraph (2) or a sum fixed as the value of any*

house or quarters with which he is being provided free of rent and rates, as the case may be :

*Provided that the amount of the additional allowance in respect of any week or other period with reference to which the additional allowance is fixed shall not exceed the amount paid by the man to or for the benefit of his wife in respect of that period.*

(4) *In this Regulation the expression " rates " means—*

- (a) *any rate as defined by section 68 of the Rating and Valuation Act, 1925, and*
- (b) *any rate for a supply of water for domestic purposes determined by reference to net annual value independently of the quantity of water consumed."* [1060]

\* \* \* \* \*

## THE POLICE (WOMEN) REGULATIONS OF MARCH 5, 1943

S. R. & O., 1943, No. 409

I, the Right Honourable Herbert Morrison, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred on me by section 4 of the Police Act, 1919, hereby make the following Regulations amending the Police (Women) Regulations \* :—

1. For Regulations 44 to 55 inclusive the following Regulations shall be substituted :—

### “(b) Grant of Special Increments of Pay for Constables

44. *Subject to Regulation 51, a constable who is in receipt of pay according to the scale prescribed by these Regulations and who has passed the qualifying examinations for promotion in police duties and educational subjects, may, at any time after she has served for five years, be granted a special increment in her scale of pay if the Chief Officer of Police is satisfied that she has shown special zeal, intelligence and proficiency in the performance of her duties and that she is well conducted.*

45. *A constable who is in receipt of a special increment under Regulation 44, may, at any time after she has served for one year from the date of the grant of the special increment, be granted a second special increment in her scale of pay if the Chief Officer of Police is satisfied that she continues to show special zeal, intelligence and proficiency in the performance of her duties and to be well conducted.*

46. *A constable who has been granted a special increment or increments shall be paid at the rate at which she would be paid on the scale in Regulation 40 if she had been appointed, in the case of a grant of one special increment, one year and, in the case of a grant of two special increments, two years before she was appointed.*

### (c) Grant of Additional Increments of Pay for Constables.

47. *Subject to Regulation 51, a constable who is in receipt of pay according to the scale prescribed by these Regulations may, at any time after she has served for seventeen years or, although she has not served for seventeen years, at any time after she has been granted a special increment or increments and*

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\* Words altered or added are printed in italics.

*has served at the maximum rate of pay of 80s. a week for five years, be granted an additional increment of 2s. 6d. a week in her pay if the Chief Officer of Police is satisfied that she has shown zeal and proficiency in the performance of her duties and that she is well conducted.*

48. *A constable who is in receipt of an additional increment may, at any time after she has served for five years from the date of the grant of the additional increment, be granted a second additional increment of 2s. 6d. a week in her pay if the Chief Officer of Police is satisfied that she continues to show zeal and proficiency in the performance of her duties and to be well conducted :*

*Provided that a constable who has previously held a higher rank and has served for twenty-two years may be granted a second additional increment after she has served for one year, instead of five years, from the date of the grant of the additional increment.*

49.—(1) *As soon as a constable has served for the appropriate qualifying period under Regulation 47 or Regulation 48, the Chief Office of Police shall consider whether an additional increment or, as the case may be, a second additional increment should be granted to her.*

(2) *A constable who has acquired a right under paragraph (1) of this Regulation to have the question considered whether a grant should be made to her, may apply to the Chief Officer of Police, as soon as may be after the end of each period of one or more complete years from the date when she acquired the right, again to consider the question, and it shall accordingly again be considered.*

(3) *A constable from whom an additional increment or increments has or have been withdrawn under Regulation 50 may apply, to the Chief Officer of Police, at the end of each period of one or more complete years from the date of the withdrawal, to consider whether an additional increment should be granted to her, and it shall accordingly be considered.*

(4) *If, on consideration under paragraph (1) or (2) of this Regulation, no grant is made the constable shall, if she applies for the information, be informed in writing why no grant was made.*

(d) *General Provisions as to Grant and Withdrawal of Special and Additional Increments of Pay for Constables*

50. *If the Chief Officer of Police is of opinion—*

- (a) *that a constable in receipt of a special increment or increments is not showing special zeal, intelligence or proficiency in the performance of her duties or that she is not well conducted, or*
- (b) *that a constable in receipt of an additional increment or increments is not showing zeal or proficiency in the performance of her duties or that she is not well conducted,*

*the constable shall be given a written warning of the opinion of the Chief Officer of Police, and if, at the end of a period of two months from the date of the warning or of such longer period as may be specified in the warning, the Chief Officer of Police is still of the same opinion, the increment or increments shall be withdrawn :*

*Provided that if, after the latest grant to the constable under Regulation 44, 45, 47 or 48—*

- (a) *the constable is guilty of any default for which she is punished by a fine of 20s. or any greater punishment,*
- (b) *the constable is guilty, during any period of twelve months, of two defaults for which she is punished by punishments other than cautions, or*

(c) *he constable is guilty of more than three defaults for which she is punished by punishments other than cautions,*

*the increment or increments may be withdrawn without warning.*

51. *No special or additional increment shall be granted to a constable from whom an increment or increments has or have been withdrawn under Regulation 50 until a period of a year has elapsed from the date of the withdrawal.*

52. *The grant or withdrawal of any increment under Regulations 44 to 51 inclusive to or from a constable in a borough police force shall be subject to confirmation by the Watch Committee.* [1061]

\* \* \* \* \*

## THE POLICE REGULATIONS OF AUGUST 23, 1943

S. R. & O., 1943, No. 1297

I, the Right Honourable Herbert Morrison, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred on me by Section 4 of the Police Act, 1919, hereby make the following Regulations amending the Police Regulations \*—

1. For paragraphs (1) and (2) of Regulation 64A there shall be substituted the following paragraphs :—

“(1) *As from 1st June, 1943, there shall be paid to every constable a supplementary allowance of 17s. a week.*

(2) *As from 1st June, 1943, there shall be paid to every member of a police force of a rank higher than that of constable—*

(a) *for every week in which the annual value of his emoluments does not exceed £500 a supplementary allowance of 14s. ;*

(b) *for every period in which the annual value of his emoluments exceeds £500 and does not exceed £511 10s. a supplementary allowance of a sum the annual value of which will, together with the annual value of his emoluments, equal the sum of £536 10s. ;*

(c) *for every period in which the annual value of his emoluments exceeds £511 10s. and does not exceed £850 a supplementary allowance at the rate of £25 a year ; and*

(d) *for every period in which the annual value of his emoluments exceeds £850 and does not exceed £875 a supplementary allowance of a sum the annual value of which will, together with the annual value of his emoluments, equal the sum of £875.”* [1062]

2.—(a) In proviso (a) to paragraph (2) of Regulations 65 the word “or” shall be omitted and after the words “a widower” there shall be inserted the words “or a man who has divorced, or been divorced by, his wife”.

(b) For paragraphs (3) and (4) there shall be substituted the following paragraphs :—

“(3) *A married man whose wife is living apart from him and who regularly makes periodic payments to her or for her benefit may be granted an additional allowance equal to the amount (if any) by which his former allowance exceeds either the allowance which is being paid to him under paragraph (2)*

\* Words altered or added are printed in italics.

of this Regulation or a sum fixed as the value of any house or quarters with which he is being provided free of rent and rates, as the case may be :

*Provided that the amount of the additional allowance in respect of any week or other period with reference to which the additional allowance is fixed shall not exceed the amount paid by the man to, or for the benefit of his wife in respect of that period.*

(4) *In this Regulation—*

(a) *the expression “ his former allowance ” means—*

- (i) *in relation to a man who, immediately before his wife commenced to live apart from him, was being provided with a house or quarters free of rent and rates, a sum fixed as the value for the time being of that house or those quarters ; and*
- (ii) *in relation to any other man, the allowance which would for the time being be payable to him under paragraph (2) of this Regulation if his wife were living with him and he were paying the rent and rates which he was paying immediately before his wife commenced to live apart from him ;*

(b) *the expression “ rates ” means—*

- (i) *any rate as defined by section 68 of the Rating and Valuation Act, 1925 ; and*
- (ii) *any rate for a supply of water for domestic purposes determined by reference to net annual value independently of the quantity of water consumed.”* [1063]

\* \* \* \* \*

## THE POLICE (WOMEN) REGULATIONS OF AUGUST 23, 1943

S. R. & O., 1943, No. 1298

I, the Right Honourable Herbert Morrison, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred on me by Section 4 of the Police Act, 1919, hereby make the following Regulation amending the Police (Women) Regulations \* :—

1. For paragraphs (1) and (2) of Regulation 56A there shall be substituted the following paragraphs :—

“ (1) *As from 1st June, 1943, there shall be paid to every woman constable a supplementary allowance of 13s 6d. a week.*

(2) *As from 1st June, 1943, there shall be paid to every woman member of a police force of a rank higher than that of constable—*

- (a) *for every week in which the annual value of her emoluments does not exceed £500 a supplementary allowance of 11s. 6d. ;*
- (b) *for every period in which the annual value of her emoluments exceeds £500 and does not exceed £510 a supplementary allowance of a sum the annual value of which will, together with the annual value of her emoluments, equal the sum of £530 ;*
- (c) *for every period in which the annual value of her emoluments exceeds £510 and does not exceed £850 a supplementary allowance at the rate of £20 a year ; and*

\* Words altered or added are printed in italics.



- (d) *for every period in which the annual value of her emoluments exceeds £850 and does not exceed £870 a supplementary allowance of a sum the annual value of which will, together with the annual value of her emoluments, equal the sum of £870."* [1064]

\* \* \* \* \*

## THE POLICE (APPEALS) RULES, 1943

S. R. & O., 1943, No. 473

March 11, 1943

In pursuance of the powers conferred upon me by section 4 of the Police (Appeals) Act, 1927, I hereby make the following Rules :—

1. These Rules shall apply to all appeals by a member of a police force in England or Wales under the Police (Appeals) Act, 1927, as amended by the Police (Appeals) Act, 1943, which former Act, as so amended, is hereafter in these Rules referred to as "the Act". [1065]

2.—(1) A person who desires to appeal under the provisions of the Act shall send to the Secretary of State a notice of appeal in the form set out in the Schedule to these Rules and shall annex to the said notice the statements and lists specified in the said form.

(2) The notice of appeal shall be sent to the Secretary of State within ten days from the date when the appellant received on the misconduct form the notification of the decision against which he desires to appeal :

Provided that where the Secretary of State is satisfied, on the application of the appellant, that by reason of the special circumstances of the case it is just and right that an appeal should be entertained after the expiration of the period aforesaid, the notice of appeal shall be sent to the Secretary of State by such date as he may fix.

(3) The appellant shall, within the said period of ten days or by the date fixed by the Secretary of State, as the case may be, send to the respondent a copy of the notice of appeal and the documents annexed thereto.

(4) The respondent, when so required by the Secretary of State, shall send to him a written statement declaring whether the respondent desires to oppose the appeal and, if so, declaring whether, in the event of an inquiry being held as hereinafter provided, he desires to appear in person or by a legal or other representative and giving particulars of the facts or contentions on which he relies and of the documentary or other evidence, if any, which he desires to submit and shall also send to him such number of additional copies of the said statement and such papers, reports, records and other documents as the Secretary of State may specify.

(5) The respondent shall send to the appellant a copy of the statement referred to in paragraph (4) above and of any papers, reports, records or other documents specified by the Secretary of State under that paragraph of which the appellant is not already in possession of a copy. [1066]

3. When the Secretary of State has decided to appoint any person or persons to hold an inquiry under section 2 of the Act, he shall send to each of them a copy of the notice of appeal and the documents annexed thereto, a copy of the statement of the respondent and copies of any papers, reports, records and other documents specified by the Secretary of State under paragraph (4) of Rule 2. [1067]

4.—(1) The Tribunal shall appoint a day for the holding of the inquiry and shall cause notice thereof to be sent to the appellant, the respondent

and the Secretary of State, not less than seven days before the day so appointed.

(2) It shall be within the discretion of the Tribunal to proceed with the inquiry on the appointed day in the absence of either party, whether represented or not, if it appears to be just and proper so to do, and to adjourn the inquiry from time to time as may appear necessary for the due hearing of the case.

(3) The Tribunal may, at any time before the conclusion of the inquiry, allow the notice of appeal or any documents annexed thereto, the respondent's statement or any papers, reports, records or other documents specified by the Secretary of State under paragraph (4) of Rule 2 to be amended as it thinks just.

(4) The appellant may, at any time before the day appointed for the holding of the inquiry, withdraw his appeal by giving notice in writing to the Secretary of State. [1068]

5. The appellant shall have the right to appear at the inquiry by a serving member of the police force to which he belongs or, if he has been dismissed or required to resign, to which he belonged when dismissed or required to resign, or with the consent of the Tribunal by counsel or a solicitor :

Provided that the appellant shall be entitled, in any case in which the respondent appears by the Clerk or other officer of the police authority or by a solicitor, to appear by a solicitor and, in any case in which the respondent appears by counsel, to appear by counsel. [1069]

6. The respondent shall have the right to appear at the inquiry by a serving member of the police force referred to in Rule 5 or by the Clerk or other officer of the police authority or, with the consent of the Tribunal, by counsel or a solicitor. [1070]

7. Unless the Secretary of State otherwise directs, the inquiry shall be held in private :

Provided that it shall be within the discretion of the Tribunal to permit such person or persons as it may consider desirable to be present during the whole or such part of the inquiry as it may think fit, and may require from any person who is permitted to be present an undertaking that he will not make public any report of, or statement with regard to, the proceedings, except at such time or under such conditions as may be specified. [1071]

8.—(1) Unless the Tribunal otherwise determines, the inquiry shall be conducted by way of rehearing the charge and the evidence in support thereof shall be given first.

(2) All evidence shall be given on oath, which shall be administered by a member of the Tribunal.

(3) All witnesses giving evidence at the inquiry shall be subject to examination and cross-examination.

(4) It shall be within the discretion of the Tribunal to determine any question as to whether any evidence tendered shall be admitted or whether any question shall or shall not be put to a witness.

(5) Unless the Secretary of State otherwise directs, a shorthand note of the evidence given at the inquiry shall be taken. [1072]

9. The Tribunal shall draw up and submit to the Secretary of State, as soon as may be after the termination of the inquiry, a report, in triplicate, of its findings, setting out—

(a) a statement of the facts admitted or found to be proved, so far as material to the case ;

- (b) a statement as to the charge or charges found to be proved ;
- (c) a statement as to whether the punishment was, in its opinion, just and proper having regard to all the circumstances before it and, if not, whether any and if so what, punishment should, in its opinion, be substituted therefor ;
- (d) where the appeal is against punishment by dismissal, by being required to resign or by reduction in rank, a recommendation as to whether, if the Secretary of State should order the appellant to be reinstated in the force or in his rank, such reinstatement should take effect with full pay as from the date of the appellant's suspension, dismissal, resignation or reduction, as the case may be ;
- (e) a recommendation as to whether the appellant should be required to pay any, and if so what, part, or the whole, of his own costs of the appeal ;
- (f) any other matter arising out of the appeal which it desires to bring to the notice of the Secretary of State ;

and shall send therewith to the Secretary of State the shorthand note of the evidence given at the inquiry, if such note has been taken, the notice of appeal and the documents annexed thereto, the statement of the respondent and all other documents produced at the inquiry or otherwise furnished in connection therewith. [1073]

10. If the Tribunal consists of more than one member, the powers conferred upon the Tribunal by paragraph (1) of Rule 4, Rule 5 and Rule 6 shall be exercised by the member appointed by the Secretary of State to preside. [1074]

11. Where any notice or other document is required by these Rules to be sent by or to the Secretary of State or any other person or authority, it shall be a sufficient compliance with these Rules if such notice or other document is posted, within such time, if any, as is prescribed by these Rules, in a registered letter directed, in the case of a letter to the Secretary of State, to the Under Secretary of State, Home Office, London, S.W.1, and in any other case to the person or authority for whom it is intended at his or its usual office or other ordinary address. [1075]

12. If any question arises as to the proper compliance with any provision of these Rules it shall be determined by the Secretary of State whose decision shall be final. [1076]

13.—(1) In these Rules the following expressions have the meanings hereby respectively assigned to them, that is to say—

“ the Act ” means the Police (Appeals) Act, 1927, as amended by the Police (Appeals) Act, 1943 ;

“ appellant ” and “ respondent ” have the same meaning as in the Act ; and

“ the Tribunal ” means the person or persons appointed to hold an inquiry under section 2 of the Act.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament. [1077]

14.—(1) These Rules may be cited as the Police (Appeals) Rules, 1943.

(2) The Police (Appeals) Rules, 1927, are hereby revoked :

Provided that the Police (Appeals) Rules, 1927, shall continue to have effect in respect of any appeal against a punishment awarded before the passing of the Police (Appeals) Act, 1943. [1078]

## SCHEDULE

*Form of Notice of Appeal to the Secretary of State*

I,\*....., on the.....day of  
 in the....., 19..., while holding the rank of.....  
 in the.....police force was punished  
 by being† { dismissed } from that force  
               { required to resign }  
               { reduced in rank to ..... }  
               { reduced in rate of pay to ..... }  
 on the ground that‡ .....  
 .....  
 .....

I received notification of the decision on§.....  
 and acknowledged having read the decision on.....

I desire to appeal against the said|| finding and punishment.  
punishment.

I|| desire  
do not desire to submit additional evidence not taken into consideration  
 at the hearing of the charge(s) against me.

¶I annex—

(1) a concise statement (marked A) of the grounds on which I desire to appeal :

(2) a list (marked B) of the documents, if any (other than documents produced at the hearing of the charge) which I desire to submit :

(3) a list (marked C) of the names and addresses of the witnesses I desire to call, with a concise statement of the material facts which each such witness will prove.

\*\*At the date on which I was so punished I was in receipt of pay at the rate of  
 £..... per week.  
 ..... per annum.

††Before being so punished, I was suspended on the .....day of  
 ..... 19 , at which date I was in receipt of pay at the rate of  
 £..... per week.  
 ..... per annum.

While suspended I received a suspension allowance at the rate of £.....  
 ††per week.  
 ..... per annum.

After being suspended I‡‡ was  
was not notified that my period of suspension  
 would be deducted in reckoning my approved service for purposes of pension.

I declare that a full and true copy of this notice of appeal, including the accompanying statement(s), has been sent to§§.....  
 as or on behalf of the respondent on|||.....

Signature .....

Address .....

Date.....19...

[1079]

\* Give name and number.

† Omit what is unnecessary.

‡ Here state the charge or charges under the Code of Discipline or such other grounds, if any, as were given for the punishment.

§ Give dates.

|| Omit the alternative which does not apply.

¶ Omit any part of this paragraph which does not apply.

\*\* Omit if there was a period of suspension immediately prior to the punishment.

†† Omit if there was no period of suspension immediately prior to the punishment.

‡‡ Omit the alternative which does not apply.

§§ Give address to which sent.

||| Give date on which sent.

## THE METROPOLITAN POLICE STAFFS SUPERANNUATION (UNESTABLISHED SERVICE) ORDER, 1943

*S. R. & O., 1943, No. 574*

*April 8, 1943*

Whereas under the Metropolitan Police Staff (Superannuation) Acts, 1875 to 1931, both as originally enacted and also as applied by section five of the Metropolitan Police Courts Act, 1897, and as extended by the Superannuation (Various Services) Act, 1938, the Secretary of State is authorised to make by Order regulations respecting the grant to officers to whom these Acts apply of superannuation allowances, compensations, gratuities, or other allowances on the like principles and conditions as are for the time being in force with respect to persons in the Civil Service of the State ;

Now, therefore, I, the Right Honourable Herbert Morrison, one of His Majesty's Principal Secretaries of State, in pursuance of the said Acts and of all other powers enabling me in this behalf, do, by this Order, make the following regulations respecting the reckoning of unestablished service towards pension by officers of the staff of the Metropolitan Police and Metropolitan Police Courts.

1. In this Order, unless the context otherwise requires :—

(1) The expression “ police service ” means service, the salary in respect of which is paid out of the Metropolitan Police Fund,

(a) under the Commissioner of Police of the Metropolis or under the Receiver for the Metropolitan Police District, otherwise than as a Constable, or

(b) if appointed after the 6th August, 1897, as a member of the staff of the Metropolitan Police Courts.

(2) The expression “ established capacity ” means employment in police service in a pensionable situation.

(3) The expression “ unestablished capacity ” means employment in police service otherwise than in an established capacity, being employment to which the person serving therein is required to devote his whole time. **[1080]**

2. In respect of any person who at the time of his appointment in an established capacity was serving in an unestablished capacity, the Secretary of State may, if in his opinion any special circumstances of the case warrant such a course, direct that his services in such unestablished capacity may be reckoned as service in an established capacity for the purposes of the Metropolitan Police Staff (Superannuation) Acts, 1875 to 1931, as originally enacted or as applied by section five of the Metropolitan Police Courts Act, 1897, the Superannuation (Various Services) Act, 1938, and the Orders made thereunder, and it shall be so reckoned accordingly. **[1081]**

3. If, as respects any person who at the time of his appointment in an established capacity is serving in an unestablished capacity, his continuous service in such unestablished capacity immediately before his appointment in an established capacity began not earlier than the date of this Order, his said continuous service shall, as to one half the period thereof, be reckoned as service in an established capacity for the purposes of the Metropolitan Police Staff (Superannuation) Acts, 1875 to 1931, as originally enacted or as applied by section five of the Metropolitan Police Courts Act, 1897, the Superannuation (Various Services) Act, 1938, and the Orders made thereunder.

Provided that, for the purpose of computing, in the case of any person, the service to be reckoned as aforesaid, no account shall be taken of any

period for which that person has served before attaining the age of eighteen years. [1082]

4. The Secretary of State may direct :

- (a) that, subject to such conditions as he may determine, the service of any person in an unestablished capacity for two or more periods shall, for the purpose of determining whether or not his service in such a capacity is to be reckoned under Clause 3 of this Order, be treated as if it were continuous service beginning at the commencement of the first of those periods, or of such one of them as he may determine ;
- (b) that, subject as aforesaid, discontinuance periods of service in an unestablished capacity shall be aggregated for the purpose of computing the service to be reckoned under Clause 3 of this Order ;
- (c) that, subject as aforesaid, a person appointed by the Secretary of State to a post in an established capacity shall, if, while his appointment to such post was under consideration by the Secretary of State, he was for any period serving in an unestablished capacity in a post previously recognised by the Secretary of State as an established post, be treated for the purposes of Clause 3 of this Order as having begun to serve in an established capacity at the beginning of the said period, and that his service during that period shall be reckoned as service in an established capacity for the purposes of the Metropolitan Police Staff (Superannuation) Acts, 1875 to 1931, as originally enacted or as applied by section five of the Metropolitan Police Courts Act, 1897, the Superannuation (Various Services) Act, 1938, and the Orders made thereunder [1083]

5. Clause 2 of this Order shall not apply in relation to any person whose service in an unestablished capacity is to be reckoned under Clauses 3 and 4 of this Order [1084]

6. This Order may be cited as the Metropolitan Police Staffs Superannuation (Unestablished Service) Order, 1943. [1085]

\* \* \* \* \*

## THE TEMPORARY CONSTABLES (EMERGENCY) RULES, 1943

*S. R. & O., 1943, No. 1527*

*October 25, 1943*

In pursuance of the power conferred on me by Regulation 40AC of the Defence (General) Regulations, 1939, I hereby make the following Rules :—

1. Constables to whom these Rules apply (hereinafter referred to as “constables”) shall be appointed by, and shall serve under the directions of, the Chief Officer of Police. [1086]

2.—(1) The Chief Officer of Police shall cause a personal record of each constable serving under his directions to be kept and, if the constable is transferred to serve under the directions of the Chief Officer of Police of another force, shall transmit the record to that Chief Officer of Police.

(2) The personal record of each constable shall contain entries of his description, including the number on his national registration identity card

and the registration number on his certificate of registration (if any) issued under the National Service Acts, 1939 to 1942, particulars of his birth-place and date of birth, his family, his previous service (if any) in the Civil Service, the Army, the Navy, the Air Force, the National Fire Service, a fire brigade, the Auxiliary Fire Service or as a member of a police force and, as regards his service as a constable to whom these Rules apply, particulars of the date of his appointment, all postings, transfers and removals, the grant or withdrawal of proficiency or Class I pay, all injuries received, all periods of sick leave, special leave with pay or leave of absence (if records of sick leave, special leave with pay and leave of absence are not kept separately), all commendations, rewards and punishments other than cautions and the date of his ceasing to be a constable with the reason, cause or manner thereof. [1087]

3.—(1) Every constable shall, on ceasing to be a constable, be given a certificate showing the period of his service and the reason, cause or manner of so ceasing, together with particulars of his personal description.

(2) The certificate shall show the cause of the man's ceasing to be a constable, according to the circumstances of the case, in one of the following ways :—

- Services no longer required ;
- Discharged on account of (a) war service injury, (b) war injury received off duty, or (c) ill health ;
- Released to join the armed forces of the Crown ;
- Released for industrial work of national importance ;
- Discharged as unsuitable ;
- Resigned ;
- Dismissed ;

and the Chief Office of Police may append thereto any recommendation which he feels justified in giving, such as :—

- His conduct was exemplary ;
- His conduct was very good ;
- His conduct was good. [1088]

4. Every constable shall carry out all lawful orders and shall at all times punctually and promptly perform all appointed duties and attend to all matters within the scope of his office as a constable. He may be required to do duty at all times, including Sundays and public holidays. [1089]

5. The normal daily period for which a constable shall be required to perform his appointed police duties shall be eight hours, exclusive of time occupied in parading for relief, waiting for relief and returning to station after relief. Where duties are performed in one tour of eight hours an interval of 30 minutes for refreshments shall be allowed so far as the exigencies of duty will permit. [1090]

6. The normal period of duty may be extended by or under the directions of the Chief Officer of Police on any particular day or for a specified period as respects any constable or constables ; and nothing in these Rules shall affect the obligation of any constable to carry out any lawful orders or to attend at any time to any matter to which it is his duty as a constable to attend. [1091]

7. When the normal period of duty of any constable is so extended, or he is recalled to do duty after his normal hours, so that his period of duty on any day is more than 12 hours, he shall be granted, if and as soon as the exigencies of duty will permit, time off from duty equal to the period worked over and above 12 hours. [1092]



8.—(1) The basic pay of a constable shall be 78*s.* 6*d.* weekly and shall commence to accrue on the date on which the constable reports for duty.

(2) A constable shall be entitled to a post-war credit of such an amount and on such conditions as may be specified in directions given by the Secretary of State. [1093]

9. A constable who has served as such for six months shall, if the Chief Officer of Police is satisfied that he is proficient in his duties and that he is performing those duties satisfactorily, be granted proficiency pay at the rate of 5*s.* weekly. [1094]

10. Subject to any restrictions imposed by the Secretary of State as to numbers, a constable who by reason of his zeal, intelligence and efficiency has been entrusted with duties involving special responsibility or is, in the opinion of the Chief Officer of Police, capable for the said reasons of being entrusted with such duties, may be designated a Class I Reservist, and a constable so designated shall be granted additional pay at the rate of 5*s.* weekly. [1095]

11. If the Chief Officer of Police is of opinion—

- (a) that a constable in receipt of proficiency pay is no longer proficient in his duties or is no longer performing those duties satisfactorily, or
- (b) that a Class I Reservist is no longer a suitable person to be entrusted with duties involving special responsibility,

the constable shall be given a written warning of the opinion of the Chief Officer of Police and if, at the end of a period of one month from the date of the warning or of such longer period as may be specified in the warning, the Chief Officer of Police is still of the same opinion, the proficiency pay shall be withdrawn or, as the case may be, the constable shall cease to be designated a Class I Reservist :

Provided that if—

- (a) the constable is guilty of any default for which he is punished by the maximum fine or any greater punishment,
- (b) the constable is guilty, during any period of twelve months, of two defaults for which he is punished by punishments other than cautions, or
- (c) the constable is guilty of more than three defaults for which he is punished by punishments other than cautions,

the proficiency pay may be withdrawn or the constable may cease to be designated a Class I Reservist without warning. [1096]

12. A constable who is not supplied with boots by the Police Authority shall be paid in lieu a boot allowance at the rate of 1*s.* 6*d.* weekly. Where boots are supplied a repair allowance not exceeding 1*s.* a month shall be paid. [1097]

13. An allowance may be paid to a constable who regularly uses his bicycle on duty at a rate or rates not exceeding those approved for the police force of which he is a member. [1098]

14. There shall be paid to a constable to whom these Rules apply subsistence and lodging allowances and refreshment allowances in accordance with the provisions of Regulations 70 and 71 of the Police Regulations, 1920, as subsequently amended, as if he were a member of a police force to whom those Regulations apply of the rank of constable, and any reference in the said Regulation 70 to "absence from home" shall in its application

to a constable to whom these Rules apply who is living away from his home be construed as a reference to absence from the place where he is living and the reference therein to "absent from his home" shall be construed accordingly. [1099]

15. A constable who is required to live away from his home shall, subject to any qualifying conditions prescribed in directions given by the Secretary of State, be paid a lodging allowance of a weekly amount prescribed in directions so given and not exceeding 24s. 6d. [1100]

16. No other payment by way of an allowance may be made except with the approval of the Secretary of State. [1101]

17.—(1) A constable shall, so far as the exigencies of duty permit, be granted leave of absence (hereinafter referred to as annual leave) at the rate of one day for each complete month of continuous service up to a maximum of twelve days in each complete calendar year, provided that, if the Secretary of State so specially authorises, broken periods of service may, for the purposes of this Rule, be reckoned as continuous.

(2) Annual leave shall be additional to any leave granted by way of rest days and to any leave specially authorised by the Secretary of State. [1102]

18.—(1) A constable who complies with the conditions specified in paragraph (2) of this Rule shall, in any period of twelve months, be entitled to sick leave with pay subject to the reduction specified in Rule 20 up to a maximum of thirteen weeks :

Provided that the Chief Officer of Police may deprive a constable of such pay in whole or in part where the sickness is certified by a medical practitioner as being due to, or the injury is suffered by reason of, the constable's own misconduct, neglect or default.

(2) (a) The constable shall report without delay to the Chief Officer of Police or to an officer designated by him for the purpose any sickness necessitating absence from duty, and shall furnish a medical certificate if his absence from duty exceeds two consecutive days, provided that, in any period of twelve months, the periods of absence from duty during which a constable is entitled to pay without furnishing a medical certificate shall not exceed seven days in all.

(b) The constable shall if called upon by the Chief Officer of Police submit himself for examination by the medical officer of the force or other medical practitioner approved by the Police Authority.

(3) Nothing in this Rule shall apply to any period of sickness occasioned by a war service injury. [1103]

19.—(1) A constable who sustains a war service injury and is thereby incapacitated for duty shall while so incapacitated be entitled to special leave with pay subject to the reduction specified in Rule 20 for a period or periods not exceeding in the aggregate twenty-six weeks, and such leave shall not be taken into account in calculating the sick leave with pay to which he is entitled under Rule 18.

(2) At the expiration of four weeks of such special leave the constable shall be examined by the medical officer of the force or other medical practitioner appointed or approved by the Police Authority, and

(a) if the medical officer or other practitioner certifies that the constable is likely to be permanently incapacitated for duty, the constable's employment shall be terminated at the expiration of eight weeks of such special leave ; or

(b) if the medical officer or other practitioner certifies that there is a reasonable prospect that the constable will be able to resume duty at

some future date the constable shall continue to be entitled to special leave with pay until his employment is terminated in accordance with paragraph (3) of this Rule or until the said period of twenty-six weeks has become exhausted, whichever is the earlier, and the constable shall from time to time at such time or times as the Chief Officer of Police may determine again be examined by such medical officer or other practitioner as aforesaid.

(3) If as the result of any such further examination the medical officer or other practitioner certifies that the constable is likely to be permanently incapacitated for duty the constable's employment shall be terminated at the expiration of four weeks from the date of the examination. [1104]

20. The pay of a constable during a period of sick leave with pay or special leave with pay shall be reduced by the amount of any benefit for which he may have qualified under the National Health Insurance Acts, 1936 to 1941, or by the amount of any payment which may be made to him in respect of the period of leave under any scheme made by the Minister of Pensions under the Personal Injuries (Emergency Provisions) Act, 1939. Any such amount may be deducted from his pay and if not so deducted shall be repaid by the constable to the police fund. [1105]

21. Subject to the provisions of paragraphs (2) and (3) of Rule 19, the Chief Officer of Police may terminate the appointment of any constable by giving him not less than one week's notice. [1106]

22.—(1) The Chief Officer of Police may suspend from duty a constable against whom a report or complaint suggesting the commission of an offence against discipline is made, or who is charged with a criminal offence, and such suspension from duty may continue until the disciplinary proceedings arising out of such report or complaint, or the criminal proceedings, as the case may be, have been concluded.

(2) Except as provided in this Rule, these Rules shall continue to apply to a constable while he is suspended from duty.

(3) A constable who is suspended from duty shall not be entitled, in respect of the period of suspension, to any pay or allowances except as provided by paragraphs (4), (5) or (6) of this Rule and paragraph (5) of Rule 25.

(4) A constable who is suspended from duty because a report or complaint suggesting the commission of an offence against discipline has been made against him shall be paid a suspension allowance at a weekly rate equal to the aggregate of the following amounts, that is to say—

(a) an amount to be determined by the Chief Officer of Police being not less than one half and not more than two-thirds of the constable's pay, and

(b) an amount equal to the constable's allowances under Rules 12, 13 and 15.

(5) A constable who is suspended from duty because he has been charged with a criminal offence may, at the discretion of the Chief Officer of Police, be paid a suspension allowance at a weekly rate not exceeding the aggregate of the two following amounts, that is to say—

(a) an amount equal to half of the constable's pay, and

(b) an amount equal to the constable's allowances under Rules 12, 13 and 15.

(6) A constable who has been suspended from duty and has returned to duty without having been found guilty of any offence shall be paid an additional suspension allowance equal to the total of the constable's pay and

allowances under Rules 12, 13, 15 and 16 in respect of the period of suspension less the amount of the suspension allowance he has received.

(7) References in paragraphs (4), (5) and (6) of this Rule to a constable's pay or allowances under Rules 12, 13, 15 and 16 shall be construed as a reference to pay or allowances at the same rate as that constable's pay or allowances immediately before his suspension from duty. [1107]

23. The Code of Offences against Discipline set out in Appendix I shall apply with respect to constables, and an offence against discipline shall be dealt with and may be punished in accordance with Appendix II. [1108]

24. A constable shall return either on demand or at the termination of his service any equipment, appliance or material issued to him and shall be liable to defray the cost of the replacement or repair, as the case may be, of any such equipment, appliance or material which is, through his own default, either not returned or consumed, destroyed or lost or otherwise becomes defective. [1109]

25.—(1) A constable who, after the date when these Rules come into force, is punished by dismissal or by reduction in rate of pay may appeal to the Secretary of State.

(2) The Secretary of State, unless it appears to him that the case is of such a nature that it can properly be determined without taking oral evidence, shall appoint one or more persons to hold an inquiry and report to him, and any person or persons so appointed shall have power to take evidence on oath and for that purpose to administer oaths.

(3) The Secretary of State may by order either allow an appeal, dismiss an appeal or vary the punishment by substituting some other punishment (whether more or less severe) which the Chief Officer of Police might have awarded.

(4) An order under paragraph (3) of this Rule allowing an appeal or varying the punishment shall take effect by way of substitution for the decision appealed from and as from the date of that decision :

Provided that unless the Secretary of State by his order otherwise directs a constable who has been reinstated in the force by that order shall not be entitled to pay or allowances in respect of the period between the date of the decision appealed from and the date of that order.

(5) The Secretary of State by an order varying the punishment may, if the constable was suspended for a period immediately preceding the date of the decision appealed from, deal with the suspension.

(6) The Secretary of State may by his order direct that the constable shall pay the whole or any part of his own costs but, subject to any such direction being given, all the costs and expenses of an appeal, including the costs of the parties, shall be defrayed out of the police fund.

(7) Any costs payable under paragraph (6) of this Rule shall be subject to taxation in such manner as the Secretary of State may direct.

(8) An order under paragraph (3) of this Rule shall forthwith be sent to the constable and to the Chief Officer of Police together with, if an inquiry was held, a copy of the report of the person or persons who held the inquiry. [1110]

26.—(1) These Rules shall apply to all constables serving as members of the Police War Reserve under the directions of the Chief Officer of Police of any police force in England or Wales to which the Police Act, 1919, applies.

(2) In these Rules the expressions "war injury" and "war service injury" have the meanings respectively assigned to them by section eight of the Personal Injuries (Emergency Provisions) Act, 1939. [1111]

27.—(1) These Rules may be cited as the Temporary Constables (Emergency) Rules, 1943.

(2) The Temporary Constables (Emergency) Rules, 1942, and the Temporary Constables (Emergency) (No. 2) Rules, 1942, are hereby revoked.

(3) These Rules shall come into force on the seventh day of November, 1943. [1112]

\* \* \* \* \*

## APPENDIX I

### *Code of Offences against Discipline*

Any constable commits an offence against discipline if he is guilty of :—

- (1) *Discreditable Conduct*, that is to say, if he acts in a disorderly manner or any manner prejudicial to discipline or likely to bring discredit on the reputation of the force or of the Police Service.
- (2) *Insubordinate or oppressive conduct*, that is to say, if he—
  - (a) is insubordinate by word, act, or demeanour, or
  - (b) uses obscene, abusive or insulting language to any other member of the force, or
  - (c) wilfully or negligently makes any false complaint or statement against any member of the force, or
  - (d) assaults any other member of the force, or
  - (e) overholds any complaint or report against any member of the force.
- (3) *Disobedience to Orders*, that is to say, if he disobeys or without good and sufficient cause omits or neglects to carry out any lawful order, written or otherwise.
- (4) *Neglect of Duty*, that is to say, if he—
  - (a) neglects, or without good and sufficient cause omits, promptly and diligently to attend to or carry out anything which is his duty as a constable, or
  - (b) idles or gossips while on duty, or
  - (c) fails to work his beat in accordance with orders, or leaves his beat, point, or other place of duty to which he has been ordered, without due permission or sufficient cause, or
  - (d) by carelessness or neglect permits a prisoner to escape, or
  - (e) fails, when knowing where any offender is to be found, to report the same, or to make due exertions for making him amenable to justice, or
  - (f) fails to report any matter which it is his duty to report, or
  - (g) fails to report anything which he knows concerning a criminal charge, or fails to disclose any evidence which he, or any person within his knowledge, can give for or against any prisoner or defendant to a criminal charge, or
  - (h) omits to make any necessary entry in any official document or book, or
  - (i) neglects, or without good and sufficient cause omits, to carry out any instructions of a Medical Officer of the force, or while absent from duty on account of sickness, is guilty of any act or conduct calculated to retard his return to duty.
- (5) *Falsehood or Prevarication*, that is to say, if he—
  - (a) knowingly makes or signs any false statement in any official document or book, or
  - (b) wilfully or negligently makes any false, misleading or inaccurate statement, or
  - (c) without good and sufficient cause destroys or mutilates any official document or record, or alters or erases any entry therein.

- (6) *Breach of Confidence*, that is to say, if he—
- (a) divulges any matter which it is his duty to keep secret, or
  - (b) gives notice, directly or indirectly, to any person against whom any warrant or summons has been or is about to be issued, except in the lawful execution of such warrant or service of such summons or
  - (c) without proper authority communicates to the public press, or to any unauthorised person, any matter connected with the force, or
  - (d) without proper authority shows to any person outside the force any book or written or printed document the property of the Police Authority, or
  - (e) makes any anonymous communication to the Police Authority or the Chief Officer of Police or any superior officer.
- (7) *Corrupt Practice*, that is to say, if he—
- (a) receives any bribe, or
  - (b) fails to account for or to make a prompt and true return of any money or property received by him in his official capacity, or
  - (c) directly or indirectly solicits or receives any gratuity, present, subscription or testimonial, without the consent of the Chief Officer of Police or the Police Authority, or
  - (d) places himself under pecuniary obligation to any publican, beer-retailer, spirit-grocer, or any person who holds a licence concerning the granting or renewal of which the police may have to report or give evidence, or
  - (e) improperly uses his character and position as a member of the force for his private advantage, or
  - (f) in his capacity as a member of the force, writes, signs or gives, without the sanction of the Chief Officer of Police, any testimonial of character or other recommendation with the object of obtaining employment for any person or of supporting an application for the grant of a licence of any kind, or
  - (g) without the sanction of the Chief Officer of Police, supports an application for the grant of a licence of any kind.
- (8) *Unlawful or unnecessary exercise of authority*, that is to say, if he—
- (a) without good and sufficient cause makes any unlawful or unnecessary arrest, or
  - (b) uses any unnecessary violence to any prisoner or other person with whom he may be brought into contact in the execution of his duty, or
  - (c) is uncivil to any member of the public.
- (9) *Malingering*, that is to say, if he feigns or exaggerates any sickness or injury with a view to evading duty.
- (10) *Absence without leave or being late for duty*, that is to say, if he without reasonable excuse is absent without leave from, or is late for, parade, Court, or any other duty.
- (11) *Uncleanliness*, that is to say, if he while on duty or while off duty in uniform in a public place is improperly dressed or is dirty or untidy in his person, clothing or accoutrements.
- (12) *Damage to clothing or other articles supplied*, that is to say, if he—
- (a) wilfully or by carelessness causes any waste, loss or damage to any article of clothing or accoutrement, or to any book, document or other property of the Police Authority, served out to him or used by him or entrusted to his care, or
  - (b) fails to report any loss or damage as above, however caused.
- (13) *Drunkenness*, that is to say, if he, while on or off duty, is unfit for duty through drink.

- (14) *Drinking on duty or soliciting drink*, that is to say, if he—
- (a) without the consent of his superior officer, drinks, or receives from any other person, any intoxicating liquor while he is on duty, or
  - (b) demands, or endeavours to persuade any other person to give him, or to purchase or obtain for him, any intoxicating liquor while he is on duty.
- (15) *Entering licensed premises, etc., while on duty*, that is to say, if he enters, while on duty, any premises licensed under the Liquor Licensing laws, or any other premises where liquors are stored or distributed, when his presence there is not required in the execution of his duty.
- (16) If he lends money to any superior.
- (17) Any constable also commits an offence against discipline, and shall be liable to punishment as provided in these Rules, if he is guilty of an offence which is punishable on conviction, whether summarily or on indictment, or if he connives at or is knowingly an accessory to any offence against discipline under this Code. [1118]

## APPENDIX II

### *Disciplinary Procedure and Punishments*

#### 1. An offence against discipline may be punished by—

- (i) dismissal ;
- (ii) reduction in rate of pay ;
- (iii) fine ;
- (iv) reprimand ;
- (v) caution.

Every punishment except a caution shall be entered on the man's conduct sheet. A caution shall not be so entered.

2. Dismissal shall take effect forthwith and a constable who is dismissed shall forfeit all rights to pay or any other emolument in respect of any period after his dismissal.

3. A reduction in rate of pay shall be for a number of weeks not exceeding twenty-two and for an amount in each week not exceeding one-twelfth of the basic pay, which shall be stated in the order by which the punishment is inflicted.

4. A fine shall not exceed three-twelfths of the basic pay and may be recovered by stoppage of pay which shall not exceed in any one week one-twelfth of such weekly pay and shall not extend over more than three weeks.

5. Every constable against whom a report or complaint suggesting the commission of an offence against discipline is made shall, as soon as possible, be informed in writing of the exact charge against him.

6. The written charge must disclose an offence against discipline as defined in the Code of Offences against Discipline, with such details of time and place as will leave the accused under no misapprehension as to the offence with which he is charged.

7. The written charge, which shall be entered on a form provided for the purpose (hereinafter referred to as the Misconduct Form), together with the report or complaint on which the charge is founded, and all reports thereon (whether confidential or otherwise) or copies thereof, shall be handed or sent as soon as practicable to the accused, who shall initial them to show that he has seen them. He shall either be allowed to retain for purposes of his defence the copies of the reports which are handed to him or shall be given a reasonable opportunity to make copies of the reports for that purpose.

8. The accused shall be directed to state in writing upon the Misconduct Form whether he admits or denies the charge and shall be allowed to give any explanation which he may wish to offer in writing. He shall also be allowed to state whether he desires to offer his explanation personally to the Chief Officer of Police, and shall, if he desires it, be given an opportunity of so doing.



9. The accused shall also be allowed to state the names of any witnesses to material facts whom he desires to be present when the charge is heard. Any such witnesses who are members of the police force shall be ordered to attend; and any witnesses who are not members of the force shall be given due notice that their attendance is desired and of the place and time of the hearing.

10.—(1) If the accused denies the charge, he shall, unless the Chief Officer of Police is satisfied with the explanation he has offered, be ordered to appear before the Chief Officer of Police and shall have an opportunity of hearing the evidence against him and of cross-examining the witnesses and of calling witnesses in his defence:

Provided that if the accused absconds or refuses or neglects without good and sufficient cause to attend the hearing of the charge at the time and place appointed, or is serving a sentence of imprisonment or penal servitude, the case may be decided in his absence.

(2) If the accused so desires he shall be allowed to have another serving member of the police force of which he is a member selected by himself to assist him in presenting his case.

11. The decision of the Chief Officer of Police shall be written upon the Misconduct Form and at once notified to the accused, who shall write on the Misconduct Form his acknowledgement of his having read the decision.

12. In the case of the Metropolitan Police the procedure in discipline cases shall be as specially approved by the Secretary of State and published in the General Orders of that Force. [1114]

### APPENDIX III

#### PART I

##### *Notice of Appeal, etc.*

1. A constable who desires to appeal shall send to the Secretary of State a notice of appeal in the form set out below.

##### *Form of Notice of Appeal*

I,\*....., on the.....day of  
....., 19....., being a Police War Reserve constable in the  
.....police force was punished by being†  
dismissed from that force  
reduced in rate of pay to .....  
on the ground that‡ .....  
.....  
.....  
.....  
.....

I was notified of the decision appealed from on\$......  
.....and I desire to appeal against the said||  
finding and punishment.  
punishment.

I|| desire  
do not desire to submit additional evidence not taken into consideration  
at the hearing of the charge(s) against me.

¶I annex—

(1) a concise statement (marked A) of the grounds on which I desire to appeal:

(2) a list (marked B) of the documents, if any (other than documents produced at the hearing of the charge) which I desire to submit:

(3) a list (marked C) of the names and addresses of the witnesses I desire to call, with a concise statement of the material facts which every such witness will prove.

\*\*At the date on which I was so punished I was in receipt of proficiency pay and was a Class I Reservist.

††Before being so punished I was suspended on the..... day of....., 19....., at which date I was in receipt of proficiency pay and was a Class I Reservist.

While suspended I received a suspension allowance at the rate of..... per week.

‡‡A copy of this notice of appeal together with the annexes has been sent on the .....day of....., 19....., to the Chief Officer of Police of.....

Signature .....

Address .....

Date.....19.....

\* Give name and number.

† Omit the alternative which does not apply.

‡ Here state the charge or charges under the Code of Offences against Discipline.

§ Give date.

|| Omit the alternative which does not apply.

¶ Omit any part of this paragraph which does not apply.

\*\* Omit if there was a period of suspension immediately prior to the punishment.

†† Omit if there was no period of suspension immediately prior to the punishment.

‡‡ Give address to which sent.

2. Subject to paragraph 5 the notice of appeal shall be sent to the Secretary of State and a copy thereof shall be sent to the respondent within a period of ten days of the notification to the appellant of the decision appealed from.

3. The respondent shall send to the Secretary of State a statement giving particulars of the facts or contentions on which he relies and of the documentary or other evidence which he desires to submit and declaring whether, if an inquiry is held, he wishes to appear in person or by a legal or other representative and shall also send to him, when so required, such number of copies of the said statement and such papers, reports, records and other documents as the Secretary of State may specify.

4.—(1) Subject to paragraph 5 the statement referred to in paragraph 3 shall be sent to the Secretary of State and a copy thereof shall be sent to the appellant within a period of ten days from the receipt by the respondent of a copy of the notice of appeal.

(2) Copies of any papers, reports, records or other documents specified by the Secretary of State under paragraph 3 of which the appellant does not already possess a copy shall be sent to the appellant as soon as may be after they have been sent to the Secretary of State.

5. If the Secretary of State so directs in any particular case, whether before or after the expiration of the period of ten days mentioned in paragraphs 2 and 4, a longer period shall be substituted for the period of ten days.

## PART 2

### *Proceedings before a Tribunal*

6.—(1) The Tribunal shall appoint a day for the holding of the inquiry and shall cause notice thereof to be sent to the appellant, the respondent and the Secretary of State, not less than seven days before the day so appointed.

(2) It shall be within the discretion of the Tribunal to proceed with the inquiry on the appointed day in the absence of either party, whether represented or not, if it appears to be just and proper so to do, and to adjourn the inquiry from time to time as may appear necessary for the due hearing of the case.

(3) The Tribunal may, at any time before the conclusion of the inquiry, allow the notice of appeal or any documents annexed thereto, the respondent's statement

or any papers, reports, records or other documents specified by the Secretary of State under paragraph 3 to be amended as it thinks just.

(4) The appellant may, at any time before the day appointed for the holding of the inquiry, withdraw his appeal by giving notice in writing to the Secretary of State.

7. The appellant shall have the right to appear at the inquiry by a serving member of the police force to which he belongs or, if he has been dismissed, to which he belonged when dismissed or, with the consent of the Tribunal, by counsel or a solicitor :

Provided that the appellant shall be entitled, in any case in which the respondent appears by the Clerk or other officer of the Police Authority or by a solicitor, to appear by a solicitor and, in any case in which the respondent appears by counsel, to appear by counsel.

8. The respondent shall have the right to appear at the inquiry by a serving member of the police force to which he belongs or by the Clerk or other officer of the Police Authority or, with the consent of the Tribunal, by counsel or a solicitor.

9. Unless the Secretary of State otherwise directs, the inquiry shall be held in private :

Provided that it shall be within the discretion of the Tribunal to permit such person or persons as it may consider desirable to be present during the whole or such part of the inquiry as it may think fit, and may require from any person who is permitted to be present an undertaking that he will not make public any report of, or statement with regard to, the proceedings, except at such time or under such conditions as may be specified.

10.—(1) Unless the Tribunal otherwise determines, the inquiry shall be conducted by way of rehearing the charge and the evidence in support thereof shall be given first.

(2) It shall be within the discretion of the Tribunal to determine any question as to whether any evidence tendered shall be admitted or whether any question shall or shall not be put to a witness.

(3) Unless the Secretary of State otherwise directs, a shorthand note of the evidence given at the inquiry shall be taken.

11. The Tribunal shall draw up and submit to the Secretary of State as soon as may be after the termination of the inquiry, a report, in triplicate, of its findings, setting out—

- (a) a statement of the facts admitted or found to be proved, so far as material to the case ;
- (b) a statement as to the charge or charges found to be proved ;
- (c) a statement as to whether the punishment was, in its opinion, just and proper having regard to all the circumstances before it and, if not, whether any and if so what, punishment should, in its opinion, be substituted therefore ;
- (d) where the appeal is against punishment by dismissal, a recommendation as to whether, if the Secretary of State should order the appellant to be reinstated in the force, such reinstatement should take effect with pay and allowances in respect of the period between the date of the appellant's dismissal and the date of the Secretary of State's order ;
- (e) where the constable was suspended for a period immediately preceding the date of the decision appealed from and the Tribunal recommend that the punishment should be varied, a recommendation whether the suspension allowance should be increased ;
- (f) any other matter arising out of the appeal which it desires to bring to the notice of the Secretary of State ;

and shall send therewith to the Secretary of State the shorthand note of the evidence given at the inquiry, if such note has been taken, the notice of appeal and the documents annexed thereto, the statement of the respondent and all other documents produced at the inquiry or otherwise furnished in connection therewith.

12. If the Tribunal consists of more than one member, the powers conferred upon the Tribunal by sub-paragraph (1) of paragraph 6, paragraph 7 and paragraph 8 shall be exercised by the member appointed by the Secretary of State to preside.

## PART 3

*General*

13. Where any notice or other document is required by the provisions of this Appendix to be sent by or to the Secretary of State or any other person or authority, it shall be a sufficient compliance with the provisions of this Appendix if such notice or other document is posted, within such time, if any, as is prescribed by the provisions of this Appendix, in a registered letter directed, in the case of a letter to the Secretary of State, to the Under Secretary of State, Home Office, London, S.W.1, and in any other case to the person or authority for whom it is intended at his or its usual office or other ordinary address.

14. If any question arises as to the proper compliance with any provision of this Appendix, it shall be determined by the Secretary of State, whose decision shall be final.

15. In this Appendix—

“the respondent” means the Chief Officer of Police; and

“the Tribunal” means the person or persons appointed by the Secretary of State under paragraph (2) of Rule 25. [1115]

## THE SPECIAL CONSTABLES ORDER, 1943

*S. R. & O.*, 1943, No. 1562

*October 28, 1943*

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Whereas by the Special Constables Act, 1914, as amended by the Special Constables Act, 1923, power is conferred on His Majesty, by Order in Council, to make Regulations with respect to the appointment and position of special constables appointed under the Special Constables Act, 1831, or under section one hundred and ninety-six of the Municipal Corporations Act, 1882, and by these Regulations to make such provisions as are mentioned in the said Special Constables Act, 1914, as so amended:

Now, therefore, His Majesty is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order shall apply to special constables serving in a whole-time capacity who are granted pay under the Special Constables Order, 1940. [1116]

2.—(1) The following provisions of the Special Constables Order, 1923, that is to say:—

(a) so much of paragraph 6 as authorises the making of regulations relating to discipline;

(b) paragraph 8;

(c) so much of paragraph 10 as relates to suspension and dismissal;

shall not apply to special constables to whom this Order applies.

(2) Any provisions relating to suspension from duty, offences against discipline, the imposition of punishment for such offences and appeals against the imposition of such punishments which, under rules made by virtue of Defence Regulations, apply to constables appointed for service during a period of national emergency only, shall apply also to the special constables to whom this Order applies as if the pay and allowances of such a special constable under the Special Constables Order, 1923, as amended by the Special

Constables Order, 1942, and the Special Constables Order, 1940, were pay and allowances under the corresponding provisions of any such rules as aforesaid, and as if such a special constable were a member of the police force for the area for which he is appointed. [1117]

3.—(1) This Order may be cited as the Special Constables Order, 1943.

(2) This Order shall come into force on the seventh day of November, 1943. [1118]

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## PORT OF LONDON AUTHORITY

*See LONDON.*

## PRISONS

ORDERS, CIRCULARS AND MEMORANDA :—  
The Prison Rules, 1943

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### ORDERS, CIRCULARS AND MEMORANDA

#### THE PRISON RULES, 1943

*S. R. & O., 1943, No. 878*

*June 18, 1943*

1. These Rules may be cited as the Prison Rules, 1943. [1119]

2. These Rules shall take effect from the 1st day of July, 1943. [1120]

3.—(1) In paragraph (a) of Rule 69 of the Prison Rules, 1933, for the words "one-sixth" there shall be substituted the words "one-third".

(2) In paragraph (b) of the said Rule for the words "one-fourth (or in the case of women one-third)" there shall be substituted the words "one-third".

(3) At the end of the said Rule there shall be added the following proviso :—

"Provided that nothing in the said arrangements shall authorise the reduction of any period of imprisonment to be served to less than thirty days." [1121]

4.—(1) In Rule 163 of the Prison Rules, 1933, for the words "one-sixth" there shall be substituted the words "one-third".

(2) At the end of the said Rule there shall be added the words

"or be so assessed as to authorise the reduction of any period of imprisonment to be served to less than thirty days". [1122]

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## PUBLIC SERVICE VEHICLES

*See, also, MOTOR LICENCES.*

ORDERS, CIRCULARS AND MEMORANDA :—

Public Service Vehicles (Equipment and Use) (Amendment) Regulations, 1943 — 410

### ORDERS, CIRCULARS AND MEMORANDA

#### THE PUBLIC SERVICE VEHICLES (EQUIPMENT AND USE) (AMENDMENT) REGULATIONS, 1943

*S. R. & O., 1943, No. 1220*

*August 17, 1943*

Whereas in exercise of the powers conferred on him by the Road Traffic Act, 1930, the Minister of Transport on the 12th day of April, 1941, made the Public Service Vehicles (Equipment and Use) Regulations, 1941 (hereinafter referred to as "the Principal Regulations") and such Regulations have been amended.

And whereas it is expedient that the provisions of the Principal Regulations should be further modified in manner hereinafter appearing.

Now, therefore, in exercise of the powers vested in him the Minister of War Transport hereby makes the following Regulations :—

1. These Regulations may be cited as "The Public Service Vehicles (Equipment and Use) (Amendment) Regulations, 1943." [1123]

2. The Principal Regulations shall have effect as though the following words were inserted in place of the proviso to paragraph (a) of Regulation 16 thereof :—

"Provided that no conductor need be carried :—

(a) in the case of a single-decked vehicle the seating capacity of which does not exceed 26 if no adult fare is less than 6d., and

(b) in the case of any single-decked vehicle if the Traffic Commissioners have certified that in their opinion a conductor is not required on the particular service upon which, or in the particular circumstances in which, the vehicle is being used". [1124]

3. The Interpretation Act, 1889, applies for the purpose of the interpretation of these Regulations as it applies for the purpose of the interpretation of an Act of Parliament. [1125]

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## RAILWAYS, RATING OF

*See RATES AND RATING.*

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# RATES AND RATING

*See, also, LONDON.*

CASES :—	PAGE		PAGE
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Worthing Corp'n. v. Southern Railway Co., [1943] 2 All E. R. 331, H. L. — — — — —	411	Richard Thomas & Co., Ltd. v. Monmouth County Valuation Committee and West Monmouthshire Assessment Committee, [1943] 2 All E. R. 707, D. C. —	412
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## CASES

*Rates and Rating—Industrial hereditament—Assessment—Machinery and plant deemed to be part of hereditament—Motor generators used as transforming plant—Cells for electrolytic process—Rating and Valuation Act, 1925 (c. 90), s. 24, Sched. III, Cases 1 (a), 4—Plant and Machinery (Valuation for Rating) Order, 1927 (S. R. & O., 1927, No. 480).*

The plaintiff company manufactured metallic aluminium by an electrolytic process which required direct current. In order to convert the alternating current supplied from the mains, the plaintiffs passed the current through a transformer system to a distribution board, and from thence to three motor generators equipped with three dynamos which produced the direct current which was passed to cells composed of plates and fittings assembled together. The plaintiffs contended (i) that the motor generators were not machinery used for the "primary transformation of power" within the meaning of the Rating and Valuation Act, 1925, Sched. III, Class 1 (a); (ii) that the cells were not in the nature of a "building or structure" within the meaning of Class 4; and (iii) that, therefore, the specified machines and plant were not rateable :—

*Held* : on a true construction of the Act the motor generators were not used for the "primary transformation of power," nor were the cells in the nature of "buildings or structures."—*SOUTH WALES ALUMINIUM CO., LTD. v. NEATH AREA ASSESSMENT COMMITTEE*, [1943] 2 All E. R. 587; 108 J. P. 45; 41 L. G. R. 247, D. C. [1126]

*Rates and Rating—Railway—Railway hereditament—Proposal for amendment of list—Railway valuation roll—Rating and Valuation Act, 1925 (c. 90), s. 37—Railways (Valuation for Rating) Act, 1930 (c. 24).*

The first respondents were the owners and the second respondents the occupiers of a coal wharf which, on the first railway valuation roll, was included as a railway hereditament. As the result of a decision in the House of Lords, the appellants, the rating authority, anticipated that the coal wharf would not appear in the second valuation roll as a railway hereditament, and, on February 22, 1937, they made a proposal under the Rating and Valuation Act, 1925, s. 37, for a separate assessment of the coal wharf by the assessment committee, on the ground that it was not a railway hereditament. On the second valuation roll, which was completed on January 27, 1939, the wharf did not appear as a railway hereditament. The Railways (Valuation for Rating) Act, 1930, s. 18 (3), provides that the provisions of the Rating and Valuation Act, 1925, with respect to the amendment of current valuation lists shall not apply to a hereditament "for the time being shown in the railway



valuation roll as a railway hereditament." The question to be determined was whether "railway valuation roll" in this subsection meant the valuation roll existing at the date of the above proposal for amendment, or the later valuation roll which, taking effect retrospectively, governed the quinquennium during which the proposal was made:—

*Held*: on the proper construction of the Act of 1930, the phrase meant the railway valuation roll existing at the time when the proposal was made and, since the wharf appeared therein as a railway hereditament, the machinery for amendment of the valuation list under s. 37 of the 1925 Act was not available. Therefore, the proposal was ineffective.

*Decision of the Court of Appeal* ([1942] 2 All E. R. 302) *affirmed*.—*WORTHING CORPN. v. SOUTHERN RAILWAY CO.*, [1943] A. C. 593; [1943] 2 All E. R. 331; 112 L. J. Ch. 261; 169 L. T. 232; 107 J. P. 184; 59 T. L. R. 392; 87 Sol. Jo. 318; 41 L. G. R. 217, H. L. [1127]

*Rates and Rating—Rateable occupation—Lease of unfurnished dwelling houses taken in case of emergency—Houses empty and unused—Whether rateably occupied.*

The appellants were the lessees of a number of unfurnished dwelling houses which they intended to use as offices in the event of enemy action damaging their existing offices. The houses were ready for occupation but were entirely devoid of moveable furniture and tenant's fixtures. The appellants were under no obligation to repair or maintain the premises until they actually entered into possession. As their offices were not damaged they had no occasion to use the houses and the question arose whether they were in rateable occupation of the premises:—

*Held*: there was no rateable occupation as there was no occupation of any value to the person charged.—*ASSOCIATED CINEMA PROPERTIES, LTD. v. HAMPSTEAD BOROUGH COUNCIL*, [1944] 1 K. B. 49; [1943] 2 All E. R. 696; 113 L. J. (K. B.) 37; 169 L. T. 391; 108 J. P. 10; 60 T. L. R. 65; 88 Sol. Jo. 25; 41 L. G. R. 265, D. C. [1128]

*Rates and Rating—Assessment—Machinery—Transformers and distribution boards—Main transmission of power—Rating and Valuation Act, 1925 (c. 90), s. 24, Sched. III—Plant and Machinery (Valuation for Rating) Order, 1927 (S. R. & O., 1927, No. 480).*

Electrical current was brought into a large works from the Grid at a voltage of 11,000 volts. From the first distribution board some of this current was led straight to machines operating at 11,000 volts and the remainder taken through transformers to a second distribution board at 440 volts. From this board some passed to the machinery and some through transformers to another distribution board at 110 volts. Similar arrangements applied to other current generated at the works at 6,000 volts and 2,200 volts:—

*Held*: all the above were part of the "main transmission of power" and, therefore, part of the hereditament for rating purposes.—*RICHARD THOMAS & CO., LTD. v. MONMOUTH COUNTY VALUATION COMMITTEE AND WEST MONMOUTHSHIRE ASSESSMENT COMMITTEE*, [1943] 2 All E. R. 707; 41 L. G. R. 254, D. C. [1129]

*Rating—Distress warrant—Rent collected by rent collector—"Person entitled to receive the rent"—Warrant issued against rent collector—Middlesex County Council (General Powers) Act, 1938, s. 118 (2).*

The owners of a block of flats employed the appellants, a firm of estate agents and surveyors, to collect the rents. The flats were each separately rated but the tenants paid inclusive rents. At the request of the appellants

the rate demands were sent direct to them by the rating authority. By the Middlesex County Council (General Powers) Act, 1938, s. 118 (2), it is provided that the expression "owner" shall mean the person who is entitled to receive the rent. The rates being in arrear the magistrates, at the instance of the respondents, issued a distress warrant against the appellants, even though the appellants had not in their hands sufficient funds to the credit of the owners to cover the rates in arrear. It was contended that the rating authority was entitled to the issue of a warrant against the agents as they were persons entitled to receive the rent within the meaning of s. 118 (2) of the above Act :—

*Held* : on the proper construction of the section, the words "the person entitled to receive the rents" meant a person entitled to receive them for his own use and benefit and not merely as agent, and the summons was wrongly issued against the appellants.—*ADAMS AND WATTS v. SOUTHALL RATING AUTHORITY*, [1943] 1 K. B. 359; [1943] 1 All E. R. 491; 112 L. J. (K. B.) 445; 169 L. T. 64; 107 J. P. 121; 59 T. L. R. 256; 41 L. G. R. 126, D. C. [1130]

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## REGISTRATION OF ELECTORS

*See* ELECTIONS.

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## REGULATED INDUSTRIES, TRADES AND BUSINESSES

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### ORDERS, CIRCULARS AND MEMORANDA

#### ORDER AMENDING REGULATION 57B OF THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O.*, 1943, No. 198

*February 10, 1943*

For paragraph (3) of Regulation fifty-seven B of the Defence (General) Regulations, 1939 (which suspends section thirteen of the Prevention of Crimes Act, 1871, as respects metals other than lead), there shall be substituted the following paragraph :—

"(3) The operation of section thirteen of the Prevention of Crimes Act, 1871 (which prohibits dealings in certain metals in small quantities), shall be suspended during the continuance in force of this paragraph." [1131]

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## ORDER ADDING REGULATION 55F TO THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1943, No. 197*

*February 10, 1943*

After Regulation fifty-five E of the Defence (General) Regulations, 1939, there shall be inserted the following Regulation :—

**55F.**—(1) Where an offensive trade established on any premises with the consent of the local authority given under section one hundred and seven of the Public Health Act, 1936, has been discontinued in pursuance of an arrangement approved or an order made by the competent authority for the purposes of the concentration of production, then, if the trade is subsequently resumed on those premises—

- (a) for the purpose of computing the period of eighteen months mentioned in subsection (6) of the said section (which provides, among other things, that a trade, business or manufacture shall be deemed for the purposes of that section to be established, if it is resumed, on any premises on which it was previously carried on, after it has been discontinued for more than eighteen months); and
- (b) for the purpose of computing the limited period, if any, for which the carrying on of the trade was authorised by the consent of the local authority;

no account shall be taken of any time certified by the competent authority as being a time during which the trade was discontinued in pursuance of any such arrangement or order as aforesaid.

(2) In sub-paragraph (b) of paragraph (1) of this Regulation, the expression 'limited period' means, in relation to a consent given under the said section one hundred and seven, any period specified in the consent under the powers conferred by subsection (3) of that section, and includes any extension thereof granted under that subsection; and, where any such period or extension has been expressed as terminating on a particular date, that date shall for the purposes of the provisions of this Regulation be disregarded, and those provisions shall apply with respect thereto as if the period or, as the case may be, the period as so extended, had been a period of the same duration, but not expressed to terminate on a particular date.

(3) This Regulation shall apply to the administrative county of London subject to the following adaptations :—

- (a) for the references to an offensive trade there shall be substituted references to such a business as is mentioned in subsection (1) of section one hundred and forty of the Public Health (London) Act, 1936;
- (b) for references to the local authority there shall be substituted references to the sanitary authority;
- (c) for the first reference to section one hundred and seven of the Public Health Act, 1936, there shall be substituted a reference to the said section one hundred and forty;
- (d) for the reference to the period of eighteen months mentioned in subsection (6) of the said section one hundred and seven there shall be substituted a reference to the period of nine months mentioned in subsection (5) of the said section one hundred and forty.

(4) This Regulation shall apply to Scotland subject to the following adaptations :—

- (a) for the references to an offensive trade there shall be substituted references to such a business as is mentioned in subsection (1) of section thirty-two of the Public Health (Scotland) Act, 1897 ;
- (b) for references to the consent of the local authority there shall be substituted references to the sanction of the local authority ;
- (c) for the first reference to section one hundred and seven of the Public Health Act, 1936, there shall be substituted a reference to the said section thirty-two ;
- (d) for the reference to the period of eighteen months mentioned in subsection (6) of the said section one hundred and seven there shall be substituted a reference to the period of twelve months mentioned in subsection (6) of the said section thirty-two.” [1132]

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**ORDER OF THE SECRETARY OF STATE (NO. 11C) MAKING  
A BYE-LAW RELATING TO THE CONVEYANCE OF  
EXPLOSIVES IN A CARRIAGE OR BOAT WHILST CARRY-  
ING OR PLYING FOR PUBLIC PASSENGERS**

*S. R. & O., 1943, No. 1252*

*August 24, 1943*

In pursuance of the powers conferred on me by sections 37 and 39 of the Explosives Act, 1875, I by this Order make, in substitution for bye-law No. 1 of the bye-laws made pursuant to the said sections by the Secretary of State on the twentieth day of September, 1924, as subsequently amended, the following bye-law :—

1. Explosive shall not be conveyed in a carriage or boat whilst carrying or plying for public passengers, unless the quantity be less than 5 lb. and all due precautions be taken for the prevention of accidents by fire or explosion :

Provided that there shall not be conveyed in any such carriage or boat any explosive of the 5th (Fulminate) class, or any explosive of the 3rd division of the 6th (Ammunition) class, or any explosive of the 1st division of the 7th (Firework) class.

The bye-law made pursuant to the said sections by the Secretary of State on the thirteenth day of July, 1942, is hereby rescinded. [1133]

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## ROAD TRAFFIC

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### ORDERS, CIRCULARS AND MEMORANDA

#### ORDER AMENDING REGULATION 72 OF THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1943, No. 587*

*April 20, 1943*

For paragraph (1c) of Regulation seventy-two of the Defence (General) Regulations, 1939 (which allows persons under twenty-one to drive agricultural tractors on roads in the course of the internal operations of a farm or from one farm to another farm) there shall be substituted the following paragraph :—

“(1c) During the continuance in force of this Regulation subsection (3) of section nine of the Road Traffic Act, 1930 (which prohibits persons under twenty-one years of age from driving certain heavy vehicles on roads), shall have effect as if for the proviso thereto the following proviso were substituted :—

‘ Provided that this subsection shall not apply to a tractor used primarily for work on land in connection with agriculture ’ ”. [1134]

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#### THE ROAD VEHICLES (FUNCTIONAL AND OTHER MARKS) ORDER, 1943

*S. R. & O., 1943, No. 53*

*January 6, 1943*

The Minister of War Transport in exercise of his powers under Regulation 70 of the Defence (General) Regulations, 1939, and of all other powers enabling him in that behalf hereby makes the following Order :—

1. The Road Vehicles (Service Marks) Order, 1941, is hereby revoked. [1135]

2. No person shall use on a highway any vehicle on which is displayed any marking specified in the first column of the Schedule hereto, or any mark or

device which might reasonably be mistaken for such marking, unless its attachment to that vehicle is duly authorised by or on behalf of the appropriate authority specified in the second column of the said Schedule. [1136]

3. This Order shall come into force on the 17th day of January, 1943, and may be cited as The Road Vehicles (Functional and other Marks) Order, 1943. [1137]

### SCHEDULE

<i>Marking</i>	<i>Authority who may Authorise the Marking</i>
1. A fouled anchor and a letter ..	The Admiralty.
2. A broad arrow surmounted by the letters "WD".	The Secretary of State for War.
3. A roundel consisting of a circular red spot on a white ground enclosed in a blue circle.	The Secretary of State for Air.
4. A yellow triangle on which is superimposed a black triangular band enclosing a letter or group of letters in black.	The Minister of Home Security.
5. A label on which appears an oblong band enclosing the Royal Arms, the letters "EL" and the identification letter(s) and number of the label.	The Minister of Home Security.
6. A label on which appears the word "PRIORITY", surmounted by a crown and the identification number of the label.	The Minister of Home Security.

[1138]

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## THE USE OF VEHICLES DURING HARVESTING ORDER, 1943

*S. R. & O., 1943, No. 868*

*June 15, 1943*

By virtue of his powers under Regulation 72 of the Defence (General) Regulations, 1939, and of all other powers enabling him in that behalf the Minister of War Transport (hereinafter called "the Minister") hereby orders as follows :—

1. The Minister hereby authorises the use during the harvesting season of any vehicle for the purpose of conveying persons engaged in agricultural work to or from such work and this authority is granted generally for the purposes of paragraph (2) of the said Regulation 72. [1139]

2. The Minister hereby directs that in any proceedings which may be taken in respect of such use as aforesaid in contravention of Section 67 or Section 72 of the Road Traffic Act, 1930, or Section 1 of the Road and Rail Traffic Act, 1933, it shall be a defence to prove that the vehicle was on the occasion in question being used under this Authority. [1140]

3. In this Order the expression "the harvesting season" means the period between the 21st June and 30th November, 1943. [1141]

4. This Order may be cited as "The Use of Vehicles During Harvesting Order, 1943." [1142]

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### EXPLANATORY NOTE

In some cases the conveyance of large numbers of voluntary workers to and from farms during the harvesting season may be beyond the capacity of existing public service facilities and this order will permit the use of goods vehicles for this purpose.

Under the existing regulations many of the goods vehicles which may be used might require public service vehicle permits and in some cases road service permits as well. This Order will relax these restrictions. [1143]

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## THE MOTOR VEHICLES (SPEED REGULATION) ORDER, 1943

*S. R. & O., 1943, No. 1231*

*August 20, 1943*

The Minister of War Transport in exercise of his powers under Regulation 70 and Regulation 70A of the Defence (General) Regulations, 1939, and of all other powers enabling him in that behalf hereby makes the following Order :—

1. In this Order the expressions "motor tractor", "heavy motor car" and "motor car" have the same meanings as in the Road Traffic Act, 1930, and the expression "gas trailer" has the same meaning as in the Motor Vehicles (Construction and Use) Regulations, 1941. [1144]

2. Notwithstanding the provisions of section 10 of, and the First Schedule to, the Road Traffic Act, 1930, as amended by the Road Traffic Act, 1934 :—

(1) a motor tractor, heavy motor car or motor car drawing an agricultural trailer the wheels of which are not fitted with pneumatic, soft or elastic tyres may proceed at 10 miles per hour if :—

(a) all the wheels of the drawing vehicle are fitted with pneumatic, soft or elastic tyres ;

(b) each tyre of the trailer is smooth-soled and not less than 4 inches in width and has its edges rounded to a radius of not less than  $\frac{3}{8}$  inch ;

(c) the total weight transmitted to the road surface by any two wheels of the trailer in line transversely does not exceed 4 tons ; and

(d) suitable and sufficient springs are fitted between each wheel and the frame of the trailer ; and

(2) a passenger vehicle, which is a motor car constructed to carry not more than 7 persons (exclusive of the driver), when drawing a gas trailer, shall be subject to no limit of speed imposed by that section and Schedule if all the wheels of the drawing vehicle and the trailer are fitted with pneumatic tyres. [1145]

3. Nothing in paragraph 2 hereof shall affect the obligation of the driver of a vehicle to observe the speed limits applicable on roads in built-up areas within the meaning of section 1 of the Road Traffic Act, 1934. [1146]



4. The Road Vehicles (Fire Brigade Trailer Pumps) Order, 1939, and the Motor Vehicles (Speed Regulation) Order, 1941, are hereby revoked. [1147]

5. This Order shall come into force on the first day of September, 1943, and may be cited as "The Motor Vehicles (Speed Regulation) Order, 1943." [1148]

\* \* \* \* \*

### EXPLANATORY MEMORANDUM

The effect of this Order is to provide :—

- (1) that steel-wheeled agricultural trailers may, subject to the specified conditions, be drawn at a speed of 10 miles an hour in place of the existing limit of 5 miles an hour ; and
- (2) that there shall be no speed limit outside built-up areas for private cars by reason of the fact that they are drawing gas trailers.

Paragraph 4 of the Order repeals two Orders the first of which has been replaced by sub-paragraph (3) of Regulation 70A of the Defence (General) Regulations and the second by sub-paragraph 2 (2) of this Order. [1149]

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## THE MOTOR VEHICLES (AUTHORISATION OF SPECIAL TYPES) (AMENDMENT) ORDER, 1943

*S. R. & O., 1943, No. 1479*

*October 12, 1943*

Whereas in exercise of his powers under section 3 of the Road Traffic Act, 1930, the Minister of War Transport on the 8th day of July, 1941, made the Motor Vehicles (Authorisation of Special Types) General Order, 1941 (hereinafter referred to as "the Principal Order"), and that Order has been amended.

And whereas it is expedient that the provisions of the Principal Order should be further modified in manner hereinafter appearing.

Now, therefore, the Minister of War Transport in exercise of the powers vested in him hereby makes the following Order.

1. This Order may be cited as "The Motor Vehicles (Authorisation of Special Types) (Amendment) Order, 1943." [1150]

2. Paragraph 11 of the Principal Order shall have effect as though :—

(i) in sub-paragraph (1) thereof :—

(a) the following definition were inserted immediately after the definition of "abnormal indivisible load" :—

"Dumper" means a motor vehicle specially designed and constructed for use in connection with engineering operations, fitted with a tipping body, moving platform or other similar device for discharging its load, having the driving seat at the rear and steered by its rear wheels ; and

(b) in the definition of "engineering plant" the words "exclusive of dumpers" were inserted immediately after the words "plant or equipment" : and

- (ii) that part of sub-paragraph (3) thereof which begins with the words "The Minister authorises" and ends with the words "that is to say" were deleted therefrom and the following words were inserted in their place :—

"The Minister authorises :—

- (i) The use on roads of engineering plant ; and
- (ii) the use on roads at the site of engineering operations of dumpers actually engaged in such operations, notwithstanding that such vehicles do not comply in all respects with the requirements of the Construction and Use Regulations or the Track Laying Regulations, subject to the conditions and restrictions contained in sub-paragraphs (5), (6), (7) and (8) hereof and also to the conditions and restrictions following, that is to say " :— [1151]

3. The Interpretation Act, 1889, applies for the purpose of the interpretation of these Regulations as it applies for the purpose of the interpretation of an Act of Parliament. [1152]

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## THE MOTOR VEHICLES (CONSTRUCTION AND USE) (AMENDMENT) PROVISIONAL REGULATIONS, 1943

*P. R. & O., 1943*

*August 11, 1943*

Whereas in exercise of the powers conferred on him by Section 30 of the Road Traffic Act, 1930, the Minister of Transport on the 21st day of March, 1941, made the Motor Vehicles (Construction and Use) Regulations, 1941 (hereinafter referred to as "the Principal Regulations"), and such Regulations have been amended.

And whereas it is expedient that the provisions of the Principal Regulations should be further modified in manner hereinafter appearing.

Now, therefore, in exercise of the powers vested in him the Minister of War Transport hereby makes the following Regulations and further certifies under Section 2 of the Rules Publication Act, 1893, that on account of urgency such Regulations should come into force forthwith as Provisional Regulations and continue in force until Statutory Rules shall have been made in accordance with the last mentioned Act.

1. These Regulations may be cited as "The Motor Vehicles (Construction and Use) (Amendment) Provisional Regulations, 1943." [1153]

2. Regulation 85 of the Principal Regulations (which provides for exemptions from the requirements of Section 17 of the Road Traffic Act, 1930, relating to the employment of attendants with vehicles drawing trailers) shall have effect as though the following words were added thereto :—

"(ix) where a motor vehicle belonging to the Admiralty, the War Department or the Air Ministry and being used for naval, military or air force purposes is drawing a trailer fitted with brakes which can be applied by the driver of the drawing vehicle." [1154]

3. The Interpretation Act, 1889, applies for the purpose of the interpretation of these Regulations as it applies for the purpose of the interpretation of an Act of Parliament. [1155]

\* \* \* \* \*

## THE MOTOR VEHICLES (CONSTRUCTION AND USE) (AMENDMENT) (NO. 2) REGULATIONS, 1943

*S. R. & O.*, 1943, No. 1279

*August 30, 1943*

Whereas in exercise of the powers vested in him under section 30 of the Road Traffic Act, 1930, the Minister of Transport on the 21st day of March, 1941, made the Motor Vehicles (Construction and Use) Regulations, 1941 (hereinafter referred to as "the Principal Regulations"), and those Regulations have been amended.

And whereas it is expedient that the provisions of the Principal Regulations should be further modified in manner hereinafter appearing.

Now, therefore, the Minister of War Transport in exercise of the powers vested in him hereby makes the following Regulations.

1. These Regulations may be cited as "The Motor Vehicles (Construction and Use) (Amendment) No. 2) Regulations, 1943." [1156]

2. The Principal Regulations shall have effect as though the following were added as a further proviso to paragraph (3) of Regulation 82 thereof (which requires persons in charge of motor vehicles to stop the engine and set the brakes when quitting the vehicle):—

"Provided further that this paragraph shall not apply to the quitting of a motor vehicle without having stopped the engine in any case where the vehicle is propelled by gas produced in plant carried on the vehicle or on a trailer drawn by the vehicle." [1157]

3. The Interpretation Act, 1889, applies for the purpose of the interpretation of these Regulations as it applies for the purpose of the interpretation of an Act of Parliament. [1158]

\* \* \* \* \*

## THE MOTOR VEHICLES (CONSTRUCTION AND USE) (AMENDMENT) (NO. 3) PROVISIONAL REGULATIONS, 1943

*P. R. & O.*, 1943

*September 4, 1943*

Whereas in exercise of the powers conferred on him by the Road Traffic Act, 1930, the Minister of Transport on the 21st March, 1941, made the Motor Vehicles (Construction and Use) Regulations, 1941 (hereinafter referred to as "the Principal Regulations"), and on the 26th March, 1941, made the Motor Vehicles (Construction and Use) (Track Laying Vehicles) Regulations, 1941 (hereinafter referred to as "the Track Laying Regulations"), and such Regulations have been amended.

And whereas it is expedient that the provisions of the Regulations aforesaid should be further modified in manner hereinafter appearing.

Now, therefore, in exercise of the powers aforesaid and of all other powers enabling him in that behalf the Minister of War Transport hereby makes the following Regulations and further certifies under section 2 of the Rules Publication Act, 1893, that on account of urgency such Regulations should come into force forthwith as Provisional Regulations and continue in force until statutory rules shall have been made in accordance with the last mentioned Act.

1. These Regulations may be cited as "The Motor Vehicles (Construction and Use) (Amendment) (No. 3) Provisional Regulations, 1943." [1159]
2. The Principal Regulations shall have effect as though :—
  - (1) in paragraph (3) of Regulation 34, paragraph (3) of Regulation 39 and paragraph (3) of Regulation 50 thereof the date "1st January, 1945" were substituted for the date "1st October, 1943"; and
  - (2) in Regulation 10, the proviso to Regulation 12, the first proviso to Regulation 35, the first proviso to Regulation 40, Regulation 52 and Regulation 89 thereof the date "1st January, 1945" were substituted for the date "1st January, 1944." [1160]
3. The Track Laying Regulations shall have effect as though in Regulation 10, the proviso to Regulation 12, the first proviso to Regulation 30, the first proviso to Regulation 32 and Regulation 38 thereof the date "1st January, 1945" were substituted for the date "1st January, 1944." [1161]
4. The Interpretation Act, 1889, applies for the purpose of the interpretation of these Regulations as it applies for the purpose of the interpretation of an Act of Parliament. [1162]

\* \* \* \*

## THE MOTOR VEHICLES (CONSTRUCTION AND USE) (AMENDMENT) (NO. 4) PROVISIONAL REGULATIONS, 1943

*P. R. & O., 1943*

*September 13, 1943*

Whereas in exercise of the powers conferred on him by the Road Traffic Act, 1930, the Minister of Transport on the 21st March, 1941, made the Motor Vehicles (Construction and Use) Regulations, 1941 (hereinafter referred to as "the Principal Regulations"), and such Regulations have been amended.

And whereas it is expedient that the provisions of the Principal Regulations should be further modified in manner hereinafter appearing.

Now, therefore, in exercise of the powers aforesaid and of all other powers enabling him in that behalf the Minister of War Transport hereby makes the following Regulations and further certifies under section 2 of the Rules Publication Act, 1893, that on account of urgency such Regulations should come into force forthwith as Provisional Regulations and continue in force until statutory rules shall have been made in accordance with the last mentioned Act.

1. These Regulations may be cited as "The Motor Vehicles (Construction and Use) (Amendment) (No. 4) Provisional Regulations, 1943." [1163]
2. The Principal Regulations shall have effect as though in paragraph (3) of Regulation 30 thereof the date "1st January, 1945" were substituted for the date "1st October, 1943." [1164]
3. The Interpretation Act, 1889, applies for the purpose of the interpretation of these Regulations as it applies for the purpose of the interpretation of an Act of Parliament. [1165]

\* \* \* \*

# THE MOTOR VEHICLES (CONSTRUCTION AND USE) (AMENDMENT) (NO. 5) PROVISIONAL REGULATIONS, 1943

P. R. & O., 1943

November 17, 1943

Whereas in exercise of the powers conferred on him by the Road Traffic Act, 1930, the Minister of Transport on the 21st March, 1941, made the Motor Vehicles (Construction and Use) Regulations, 1941 (hereinafter referred to as "the Principal Regulations"), and such Regulations have been amended.

And whereas it is expedient that the provisions of the Principal Regulations should be further modified in manner hereinafter appearing.

Now, therefore, in exercise of the powers aforesaid and of all other powers enabling him in that behalf the Minister of War Transport hereby makes the following Regulations and further certifies under section 2 of the Rules Publication Act, 1893, that on account of urgency such Regulations should come into force forthwith as Provisional Regulations and continue in force until statutory rules shall have been made in accordance with the last mentioned Act.

1. These Regulations may be cited as "The Motor Vehicles (Construction and Use) (Amendment) (No. 5) Provisional Regulations, 1943." [1166]

2. Regulation 51 of the Principal Regulations shall have effect as though the following paragraph were added to the proviso thereto :—

"(iv) any trailer used for the purpose of carrying water for a road roller which is being used in connection with the construction, maintenance or repair of roads." [1167]

3. Regulation 52 of the Principal Regulations shall have effect as though the following paragraph were added to the proviso thereto :—

"(iv) used for the purpose of carrying water for a road roller which is being used in connection with the construction, maintenance or repair of roads." [1168]

4. The Interpretation Act, 1889, applies for the purpose of the interpretation of these Regulations as it applies for the purpose of the interpretation of an Act of Parliament. [1169]

\* \* \* \* \*

## CASES

*Street Traffic—Pedestrian crossing—Accident—Failure of motorist to stop before reaching crossing—Contributory negligence—Whether duty of pedestrian altered by reason of black-out—Pedestrian Crossing Places (Traffic) Provisional Regulations, 1935, regs. 3, 4, 7.*

The plaintiff was injured on an uncontrolled pedestrian crossing during the black-out by a motor vehicle owned by the appellants. It was contended that the decision in *Bailey v. Geddes*, [1938] 1 K. B. 156, excluded the defence of contributory negligence :—

*Held* [SCOTT, L.J., dissenting]: the action was for a breach of statutory duty and in such an action the defence of contributory negligence is available.

*Decision of* CROOM-JOHNSON, J. ([1942] 2 All E. R. 214) *reversed*.—SPARKS v. EDWARD ASH, LTD., [1943] K. B. 223; [1943] 1 All E. R. 1; 112 L. J. (K. B.) 289; 168 L. T. 118; 107 J. P. 44; 59 T. L. R. 92; 41 L. G. R. 57, C. A. [1170]

## SECONDARY EDUCATION

See EDUCATION.

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## TOWN AND COUNTRY PLANNING

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## STATUTES

### THE MINISTER OF TOWN AND COUNTRY PLANNING ACT, 1943

(6 & 7 Geo. 6, c. 5)

#### PRELIMINARY NOTE

The movements in population and industry and the general development of the national life as a result of the war, as well as the destruction due to enemy action, have made an energetic and co-ordinated town planning policy a necessity of post-war development. Parliament accordingly provided, in the Minister of Works and Planning Act, 1942 (35 Statutes 55), for the appointment of a Minister of Works and Planning to combine the functions of the Minister of Works and Buildings in relation to priorities and the building trade (exercisable under the Defence Regulations); the functions of the Minister of Health in relation to town planning; and the functions of the Commissioners of Works. The first two groups of functions had been transferred, by means of amendment of the Defence Regulations, and by S. R. & O., 1942, No. 1313, when it was decided to create an entirely separate ministry for town planning, leaving the other two groups of functions to the Minister of Works (as he is now to be called).

The Minister of Town and Country Planning Act, 1943, provides (s. 1) for the appointment of a Minister of Town and Country Planning, "to be charged with the duty of securing consistency and continuity in the framing and execution of a national policy with respect to the use and development of land throughout England and Wales," and for the transfer to that Minister, by Order in Council, of all functions exercisable by the Minister of Works and Planning under the Town and Country Planning Act, 1932 (25 Statutes 470). These are all the functions which were formerly exercisable by the Minister of Health under that Act with the exceptions only of those contained in ss. 32, 42, 51 and 55 thereof (see notes to s. 1, *post*). In view of the appointment of the Minister the Act also provides, in ss. 6 and 7 respectively, for amendments and modifications in the provisions of the Town and Country Planning Act, 1932 (*op. cit.*), and the Minister of Works and Planning Act,

1942. Further amendments to these and other statutes may be made for the purposes of the transfer, by Order in Council under s. 6.

By the Minister of Town and Country Planning (Transfer of Powers) (No. 1) Order, 1943 (S. R. & O., 1943, No. 206), the transfer of functions to the Minister of Town and Country Planning is effected as from February 10, 1943. [1171]

## ARRANGEMENT OF SECTIONS

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*An Act to make provision in connection with the appointment of a Minister of Town and Country Planning; to provide for the transfer to that Minister of certain statutory functions; and to provide for the establishment of statutory Commissions for the purpose of exercising such functions in relation to the use and development of land in England and Wales as may hereafter be determined.*  
[1172] [4th February, 1943]

### 1. Appointment and functions of Minister of Town and Country Planning.—

It shall be lawful for His Majesty to appoint a Minister of Town and Country Planning, to be charged with the duty of securing consistency and continuity in the framing and execution of a national policy with respect to the use and development of land throughout England and Wales, and, as from such date as His Majesty may by Order in Council appoint, there shall be transferred to that Minister all functions exercisable by the Minister of Works and Planning under the Town and Country Planning Act, 1932. [1173]

The functions exercisable by the Minister of Works and Planning were transferred to the Minister of Town and Country Planning, as from February 10, 1943, by the Minister of Town and Country Planning (Transfer of Powers) (No. 1) Order, 1943 (S. R. & O., 1943, No. 206). All the functions formerly exercised by the Minister of Health under the Town and Country Planning Act, 1932 (25 Statutes 470), had been transferred to the Minister of Works and Planning, with the following exceptions: s. 32 (excepted by s. 1 (1) (c) of the Minister of Works and Planning Act, 1942 (35 Statutes 55)); s. 42 (repealed by S. R. & O., 1942, No. 1313, made under the Act of 1942); ss. 51 and 55 (excepted by S. R. & O., 1942, No. 1313). The operation of S. R. & O., 1942, No. 1313, is expressly saved by s. 7, *post*.

**2. Oath of Allegiance and Official Oath.**—The Minister of Town and Country Planning (hereinafter referred to as “the Minister”) shall take the oath of allegiance and the official oath, and the Promissory Oaths Act, 1868, shall have effect as if the name of the Minister were included in the First Part of the Schedule to that Act. [1174]

The Promissory Oaths Act, 1868 (3 Statutes 381) prescribes the form of the Official Oath and Oath of Allegiance which are required to be taken by each of the officers named in the First Part of the Schedule thereto as soon as may be after acceptance of office.



**3. Remuneration, appointment of officers, etc.**—(1) There shall be paid to the Minister an annual salary not exceeding five thousand pounds. [1175]

(2) The Minister may appoint such secretaries, officers and servants as he may with the consent of the Treasury determine, and there shall be paid to the secretaries, officers and servants so appointed such salaries or remuneration as the Treasury may determine. [1176]

**4. Capacity to sit in House of Commons.**—A person holding office as Minister of Town and Country Planning or as Parliamentary Secretary to the Ministry shall not thereby be rendered incapable of being elected as a member of the Commons House of Parliament or of sitting or voting as such a member, but only one such Parliamentary Secretary shall sit as a member of that House. [1177]

The Succession to the Crown Act, 1707 (3 Statutes 179), makes it illegal for any person who is appointed to any office of profit under the Crown created since October 25, 1705, to sit or vote in the House of Commons. This section removes the disqualification so far as the Minister of Town and Country Planning and his Parliamentary Secretaries are concerned, while the proviso ensures that not more than one Parliamentary Secretary shall sit in the House of Commons while the Minister himself so sits.

**5. Seal style and acts of Minister.**—(1) The Minister shall for all purposes be a corporation sole and shall have an official seal which shall be authenticated by the signature of the Minister or of a secretary of the Ministry or of any person authorised by the Minister to act in that behalf. [1178]

(2) The seal of the Minister shall be officially and judicially noticed, and every document purporting to be an instrument made or issued by the Minister and to be sealed with the seal of the Minister authenticated in the manner provided by this section, or to be signed by a secretary of the Ministry or any person authorised as aforesaid, shall be received in evidence and be deemed to be so made or issued without further proof, unless the contrary is shown. [1179]

(3) A certificate signed by the Minister that any instrument purporting to be made or issued by him was so made or issued shall be conclusive evidence of that fact. [1180]

(4) The Documentary Evidence Act, 1868, shall apply to the Minister as if his name were included in the first column of the Schedule to that Act, and as if he or a secretary of the Ministry or any person authorised by him to act on his behalf were mentioned in the second column of that Schedule, and as if the regulations referred to in that Act included any document issued by the Minister. [1181]

The Documentary Evidence Acts, 1868 and 1882 (8 Statutes 230, 239), facilitate the proof of various official and public documents.

**6. Additional provisions as to transfer of functions to the Minister.**—(1) As from the date appointed for the purpose of section one of this Act, the provisions of the Town and Country Planning Act, 1932, specified in the first columns of the First Schedule to this Act shall have effect subject to the amendments set out in the second column of that Schedule, being amendments consequential upon the transfer of functions effected by the said section one. [1182]

(2) If it appears to His Majesty to be expedient that any other functions relating to the use and development of land in England and Wales exercisable by any Minister of the Crown under any enactment should be exercised by the Minister, His Majesty may by Order in Council transfer those functions to the Minister. [1183]

(3) His Majesty may by Order in Council make such incidental, consequential or supplemental provisions as appear to His Majesty to be necessary or expedient in consequence of any transfer effected by or under this Act, and in particular, but without prejudice to the generality of the foregoing provision, any such Order in Council may—

- (a) modify or adapt any enactment, order, regulation, scheme, deed, agreement or other instrument relating to the transferor or to his functions or property, to such extent as appears to be necessary and expedient as aforesaid ;
- (b) provide for the carrying on and completion by, before or under the authority of the Minister or of any person appointed by him of anything begun by, before or under the authority of the transferor, or of any person appointed by him, before the date of transfer, and for the substitution of the Minister for the transferor in any contract or legal proceeding made or begun before that date ;
- (c) provide for securing that any order, regulation, direction, approval, appointment, requirement or authorisation made or given by the transferor before the date of transfer shall continue in force to the like extent and subject to the like conditions as if it had been duly made or given by the Minister. [1184]

(4) In this section the expression “ the transferor,” in relation to any functions transferred by or under this Act, means any Minister of the Crown by whom those functions were exercisable at any time before the date of transfer, and the expression “ the date of transfer ” means the date on which the transfer of those functions takes effect. [1185]

(5) Any Order in Council under this section shall be laid before Parliament as soon as may be after it is made :

Provided that no such Order in Council shall be deemed for the purposes of section one of the Rules Publication Act, 1893, to be a statutory rule to which that section applies. [1186]

The amendments of the Town and Country Planning Act, 1932 (25 Statutes 470), effected by sub-s. (1) of this section and Schedule I, *infra*, are drafting amendments only consequent upon the transfer of functions for which this Act provides. They take effect from the appointed day, which is February 10, 1943. These amendments are additional to those already effected by S. R. & O., 1942, No. 1313, made under the Minister of Works Act, 1942, s. 6 (3) (a) (35 Statutes 57), and expressly saved by s. 7 hereof, *infra* (see notes in the Cumulative Supplement, Vol. 25, Nos. 1682, 1683, 1740, 1767, 1769, 1770, 1771).

The exclusion of s. 1 of the Rules Publication Act, 1893 (18 Statutes 1016), obviates the forty days' notice of intention to make the Order, and of the place where the draft thereof may be inspected, which would otherwise be required in view of the provision that Orders in Council repealing, modifying or adapting any enactment are to be laid before Parliament.

**7. Modifications of Minister of Works and Planning Act, 1942.**—As from the date appointed for the purpose of section one of this Act, the Minister of Works and Planning shall be known as the Minister of Works ; the Minister of Works and Planning Act, 1942, shall be cited as the Minister of Works Act, 1942 ; the provisions of that Act specified in the first column of Part I of the Second Schedule to this Act shall be repealed to the extent specified in the second column of that Part, but without prejudice to the provisions of any Order in Council made under any of those provisions, and the provisions of the said Act specified in the first column of Part II of the said Schedule shall have effect subject to the amendments set out in the second column of that Part. [1187]

For the Minister of Works and Planning Act, 1942, see 35 Statutes 55.

The amendments in that Act which are hereby effected are drafting amendments consequent upon the transfer of functions for which this Act provides.

**8. Power to establish Commissions.**—(1) If it appears to His Majesty to be expedient to establish any Commission for the purpose of assisting the

Minister in the exercise of his functions in relation to the use and development of land in England and Wales, or in any area therein, His Majesty may by Order in Council make provision for that purpose, and, without prejudice to the generality of the foregoing provision, an Order under this section for the establishment of any Commission may provide—

- (a) for regulating the qualification, appointment, term of office and remuneration of members, officers and servants of the Commission ;
- (b) for regulating the procedure and quorum of the Commission ;
- (c) for determining the functions and proceedings of the Commission, and the extent to which they shall be exercised and performed subject to the control of the Minister ;
- (d) for enabling the Commission, if incorporated by the Order, to hold land without licence in mortmain notwithstanding that the land may not be held on behalf of the Crown ;
- (e) for such incidental and supplemental matters as His Majesty considers expedient. [1188]

(2) The Minister shall lay before Parliament the draft of any Order which it is proposed to recommend His Majesty in Council to make under this section, and no further proceedings shall be taken in relation thereto except in pursuance of an Address presented to His Majesty by both Houses of Parliament praying that the Order may be made in the terms of the draft. [1189]

**9. Expenses.**—Any expenses incurred for the purposes of this Act, including the remuneration payable to the Minister and to any secretaries, officers or servants appointed by him, and such sums, if any, as may be required to defray or contribute towards, the expenses of any Commission established under this Act shall, to such amount as may be sanctioned by the Treasury, be defrayed out of moneys provided by Parliament. [1190]

**10. Variation of Orders in Council.**—Any power conferred by this Act to make an Order in Council shall include power to vary or revoke the Order by a subsequent Order in Council. [1191]

**11. Construction.**—References in this Act to any enactment shall be construed as references to that enactment as amended by or under any subsequent enactment. [1192]

**12. Short title.**—This Act may be cited as the Minister of Town and Country Planning Act, 1943. [1193]

#### Section 6.

#### FIRST SCHEDULE

#### AMENDMENTS OF 22 & 23 GEO. 5, c. 48

#### *Provision Amended*

#### *Amended*

- |                   |    |  |
|-------------------|----|--|
| Section 2         | .. | In subsection (3) for the reference to the Minister of Health which, by virtue of an Order in Council made under the Minister of Works and Planning Act, 1942, was to be construed as a reference to the Minister of Works and Planning there shall be substituted a reference to the Minister of Town and Country Planning. |
| Section 32        | .. | For the words "the Minister" there shall be substituted the words "the Minister of Health".  |
| Section 51        | .. | In subsection (3) for the words "the Minister" there shall be substituted the words "the Minister of Health".  |
| Section 52        | .. | In subsection (2) the words "by the Minister", in the second place where those words occur, shall be omitted.  |
| Third<br>Schedule |    | In the proviso to paragraph 2 of Part II the words "other than the Ministry of Health" shall be omitted. [1194]  |

## SECOND SCHEDULE

## Section 7. REPEALS AND AMENDMENTS OF 5 &amp; 6 GEO. 6, c. 23

## PART I

## REPEALS

- Title .. The words "and Planning"; and the words "and of functions of the Minister of Health in relation to town and country planning".
- Section 1 .. In subsections (1) (2) and (3) the words "and Planning" wherever those words occur; and in subsection (1) the words from "and (c) all functions" to the end of the subsection.
- Section 5 .. In subsections (1) (2) and (4) the words "and Planning" wherever those words occur.
- Section 6 .. In subsection (1) paragraph (e); in subsection (2) the words "and the Minister of Health"; and in subsection (3) paragraph (b).
- Section 7 .. In subsection (1) the words "and Planning".

## PART II

## AMENDMENTS

- Title .. After the words "Commissioners of Works" there shall be inserted the word "and".
- Section 4 .. For the words from "during any period" to the end of the section there shall be substituted the words "only one such Parliamentary Secretary shall sit as a Member of that House".
- Section 6 .. In subsection (2) after the words "Commissioners of Works" there shall be inserted the word "and". [1195]

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**THE TOWN AND COUNTRY PLANNING (INTERIM DEVELOPMENT) ACT, 1943**

(6 & 7 Geo. 6, c. 29)

## PRELIMINARY NOTE

"Interim development" is defined by the Town and Country Planning Act, 1932, s. 10 (1) (25 Statutes 482) as meaning development between the date on which the resolution (*i.e.* the resolution to prepare or adopt a scheme) takes effect, and the date of the coming into operation of the scheme. The period of time to which this definition applies may be substantial; it may, indeed, extend over many years. Under the Act of 1932 the interim development authority had no power to enforce its decisions. Developers could build in defiance of the refusal of consent, or of the provisions of a draft scheme. Such developers ran the risk that on the confirmation of a scheme the responsible authority might, under s. 13 of the Act, pull down or alter the building or other work so as to bring it into conformity with the scheme. On the other hand they might have been able to persuade the Minister to modify the authority's draft so as to permit the development. And many objectionable structures put up without consent were of such a type that their utility to their owner would be finished before a scheme could become operative, so that s. 13 of the Act of 1932 held no terrors for him.

S. 5 of the present Act empowers the interim development authority to remove buildings or prohibit the use of land when consent has not been obtained.

It seems logically to be a necessary corollary of this power that there should be reasonable expedition in the making of planning schemes. The present Act does not deal with this subject, possibly because it is obviously impossible to produce considered schemes while the war lasts, possibly because expedition may be achieved by administrative action, and possibly because the whole of the practice relating

to the making of schemes by local authorities requires reconsideration. Meanwhile the Act does authorise the postponement of interim development applications where proposals cannot be carried out immediately and means will have to be found to prevent this power from becoming a clog on industry and resettlement. If sound planning is to be encouraged, the postponement of applications, possibly ill-considered, made now, will be of great benefit, but the postponement, once the war ends, is unlikely to be tolerated by the public if it is other than short. [1196]

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*An Act to bring under planning control land which is not subject to a scheme or resolution under the Town and Country Planning Act, 1932, to secure more effective control of development pending the coming into operation of planning schemes, and for purposes connected with the matters aforesaid.* [1197]

[12nd July, 1943]

**1. Application of planning resolutions to land not already subject to planning schemes or resolutions.**—(1) After the expiration of the period of three months beginning with the date of the commencement of this Act, all land which is not already the subject of a scheme in force under the principal Act or any enactment thereby repealed, or of a resolution in force under that Act to prepare or adopt such a scheme, shall be subject to a resolution to prepare a scheme under that Act, which shall be deemed to have been duly passed by the local authority for the district in which the land is situated and to have been approved by the Minister and to have taken effect accordingly at the expiration of that period :

Provided that the Minister may, by order made at any time before the expiration of the said period, direct that this section shall have effect in relation to any land specified in the order as if for the reference to the local authority for the district in which the land is situated there were substituted a reference to such other local authority or such county council or joint committee as may be so specified. [1198]

(2) It shall not be necessary to publish or serve upon any person notice of a resolution to prepare a scheme which takes effect by virtue of this section, or to compile a register for the purposes of the scheme to be made in pursuance

thereof, and accordingly the provisions of section seven of the principal Act shall not apply in relation to any such resolution. [1199]

S. 1 of the principal Act (25 Statutes 472) authorises the making of a scheme with respect to any land, whether there are or are not buildings thereon. By s. 6 (*ibid.*, 475) a local authority or joint committee (ss. 2, 3; *ibid.*, 472-4) may by resolution decide to prepare a scheme, or to adopt a scheme proposed by landowners. Such resolutions require the Minister's approval, and do not necessarily extend to all the land in the authority's area.

Where no such resolution is in force a resolution is now deemed to have been passed to prepare a scheme.

The Minister is the Minister of Town and Country Planning. Under the principal Act (see s. 2 (3); 25 Statutes 473) the Minister was the Minister of Health. The functions of that Minister were transferred to a Minister called the Minister of Works and Planning by the Minister of Works Act, 1942, s. 1 (35 Statutes 55) and to the present Minister by the Minister of Town and Country Planning Act, 1943, *ante*.

For s. 7 of the principal Act, see 25 Statutes 478.

## 2. Refusal and postponement of interim development applications.—

(1) The proviso to subsection (3) of section ten of the principal Act (which requires that applications for permission to develop land made under an interim development order must in certain cases be granted or granted unconditionally) shall cease to have effect. [1200]

The repeal of the proviso to s. 10 (3) of the principal Act deprives owners of buildings destroyed by enemy action, or demolished under emergency powers following damage by enemy action, as well of owners of buildings destroyed or demolished in other ways, *e.g.* by accidental fire, of a very valuable right, and no compensation is given for the loss of this right.

Under the repealed proviso the interim development authority could not refuse an application for permission to erect a new building on the site of an existing building (for the meaning of this expression see s. 53 of the principal Act, 25 Statutes 521) or on the site of a building which was standing within two years before the resolution took effect, if the application were made within two years of the destruction or demolition of the building or within 12 months of the date of the resolution, and conditions could not be imposed on giving consent, if the effect of the refusal or conditions would have been to prevent the applicant from erecting a building having a cubic content above the level of the ground as great as that of the previous building and (in the case of buildings used for business or industry) as great a superficial area on the ground floor as the previous building had, unless the new building would offend against a proposed building line, or the site was proposed to be reserved for a purpose which would necessitate the removal or alteration of the new building. A similar protection extended to the use of the new building when erected for the purpose for which the similar building was used, or purpose of a similar character, except in the case of a noxious or offensive use of the building.

By the Town and Country Planning (General Interim Development) Order, 1933 (S. R. & O., 1933, No. 236) Article 6, made under s. 10 (1) of the principal Act (25 Statutes 482) a somewhat similar provision is made. This provision relates to works of alteration to an existing building or the extension of an existing building, and is limited. The protection does not apply to works of alteration which involve pulling down the building to the extent of more than one-half the superficial area or to extensions which increase the ground floor space by more than one-eighth.

It might have been expected (see s. 11 (2), *post*) that a new General Interim Development Order would have been made immediately on the passing of this Act, and would have made use of the power given to the Minister by s. 11 (1) to revoke or vary the order of 1933, but at the time of going to press no such Order has been made, and the power to refuse applications to rebuild a destroyed building is therefore very limited.

A great part of the war damage in this country is now more than two years old, but those who applied for permission to develop within two years, and whose application could not be refused, are in a strong position, though there is a power of revocation under s. 4, *post*.

In the case of a building which has sustained war damage of such a nature that the War Damage Commission will make a cost of works payment the applicant for permission to develop may find the present subsection, and, indeed, the whole of this section, a serious impediment to his hope of restoring his property.

(2) An interim development authority may, by a notice of postponement served in the prescribed manner on the applicant, postpone the consideration of any interim development application either generally or during such period as may be specified in the notice, unless the applicant shows to their satisfaction that the proposed development would be carried out immediately if the application were granted:

Provided that—

- (a) the applicant may appeal against any such notice to a court of summary jurisdiction for the petty sessional division or place within which the land or building to which the application relates is situated, by means of a notice served on the clerk



of the court and on the interim development authority within twenty-eight days after the date of the service on the applicant of the notice of postponement, and the court, if satisfied that the development would be carried out immediately if the application were granted, shall by order cancel the notice of postponement ;

- (b) if with respect to any interim development application it appears to the Minister that there are exceptional reasons requiring the immediate determination thereof, he may, without prejudice to his power to require the application to be referred to him for decision in accordance with the subsequent provisions of this Act, give directions requiring the interim development authority to determine the application, and, where a notice of postponement has been served with respect thereto, may by order cancel the notice. [1201]

This power of postponement is new. It will *inter alia* enable the interim development authority to prevent ill-considered development pending the completion of a scheme. At the present time, except in the case of trifling repair work (which is "development" within the meaning of these Acts, see s. 53 of the principal Act, 25 Statutes 520) few, if any, applicants could hope to show that they can carry out any proposed development.

Those desiring to erect new buildings, or to reconstruct former buildings which have been destroyed or demolished, in areas in which a planning scheme has come into operation require no consent under interim development procedure, the interim period being at an end. Provided, therefore, that their proposals conform to the scheme, as will usually occur, they are entitled to build or reconstruct.

The proviso gives two remedies. The effect of proviso (a) is not very clear, as it does not appear what power, if any, a court of summary jurisdiction has if the applicant fails to prove that the application would be carried out immediately if permission were given, but does satisfy the court that postponement is unreasonable.

The power of the Minister under proviso (b) extends only to cases in which it appears to him that there are exceptional reasons requiring an immediate decision. See, however, s. 6, *post*.

As to the service of notices under this subsection, see Regulation 3 of the Town and Country Planning Additional Regulations, 1944 (S. R. & O., 1944, No. 319).

(3) So much of subsection (3) of section ten of the principal Act as provides that any application for permission to develop land made under an interim development order shall be deemed to be granted unless it is refused within the period specified in that subsection shall cease to have effect, and any such application shall be deemed to be refused at the expiration of two months from the date of the receipt thereof unless within that period—

- (a) notice has been given to the applicant that the application has been determined by that authority or has been referred to the Minister for decision in accordance with the subsequent provisions of this Act ; or
- (b) the consideration of the application has been postponed by a notice of postponement under the last foregoing subsection ;

and any such application of which the consideration has been so postponed for any period shall be deemed to be refused at the expiration of two months from the end of that period unless within those two months notice has been given to the applicant as aforesaid or its consideration has again been postponed by virtue of a further notice of postponement :

Provided that—

- (i) any such period of two months may, at any time before the expiration thereof, be extended by agreement in writing made between the interim development authority and the applicant ;
- (ii) where a notice of postponement served with respect to any application is cancelled by an order made by the Minister or in proceedings



instituted before a court of summary jurisdiction under this section, this subsection shall have effect in relation to the application as if for the reference therein to the date of the receipt of the application there were substituted a reference to the date of the order of the Minister, or, as the case may be, to the date of the final determination of the proceedings. [1202]

Under s. 10 (3) of the principal Act (25 Statutes 482) if the interim development authority allowed a period of two months to elapse without giving the applicant notice of their decision they were deemed to have granted the application unconditionally. Except where there is reference of the application to the Minister, or postponement under the previous subsection the application is now to be deemed to be refused, at the expiration of a similar period. There is no hardship here. Under the old law some applications were deemed to be granted as a result of inadvertence. Now the right of appeal under s. 10 (5) of the principal Act (25 Statutes 483) may be exercised immediately the two months have expired.

A curious position, however, does arise. If the interim development authority has done nothing for two months the power to postpone is lost. The application is refused and the authority is *functus officio*. Under s. 6 (4), *post*, the powers of the Minister on appeals are expressed in the widest terms, but the Minister's powers on the reference of an application to him are defined by s. 6 (1). His decision is to be deemed to be a decision on an appeal from a decision of an interim development authority. The latter opinion appears to be that the Minister has no power to substitute postponement for refusal.

(4) In relation to any application which, under the provisions of this section, is deemed to be refused at the expiration of any period, the provisions of subsection (5) of section ten of the principal Act (which relates to appeals to the Minister) shall have effect as if for the reference therein to the date on which the applicant received notice of the decision of the authority there were substituted a reference to the expiration of that period. [1203]

(5) Nothing in this section shall be construed as affecting the duty of an interim development authority—

- (a) to take into consideration with reasonable dispatch all interim development applications made to them, other than applications the consideration of which is postponed under the provisions of this section or which are referred to the Minister for decision in accordance with the subsequent provisions of this Act; and
- (b) to give notice to the applicant of their decision upon the consideration of any such application, including, where the application is refused or granted subject to conditions, a statement of the reasons for their decision. [1204]

**3. Temporary permissions for interim development.**—(1) Where, on an interim development application, permission for the erection, construction or carrying out of any building or work, or for any use of any building or land, has been granted, whether before or after the commencement of this Act, for a limited period only, then, subject to the provisions of this section, the building, work or use shall not be deemed for the purposes of a scheme under the principal Act to be an existing building, an existing work or an existing use, as the case may be, by reason only of that permission. [1205]

(2) Where the period for which any such permission was granted has not expired on the date on which the scheme comes into operation, then, during the remainder of that period—

- (a) subsections (3) and (6) of section thirteen of the principal Act, and subsection (2) of section twenty of that Act (which make special provision, in the case of existing buildings, works, and uses, with respect to the time for service of notice of action proposed to be taken under the said section thirteen, the recovery of expenses incurred in taking such action, and the payment of compensation in respect of any such action); and
- (b) any provision included in the scheme in accordance with paragraph (ii) of subsection (2) of section nineteen of the principal Act (which

relates to the maintenance, alteration and replacement of existing buildings and the continuation of the existing use of such buildings),

shall apply in relation to the building, work, or use, as the case may be, as those provisions apply in relation to existing buildings, existing works, or existing uses respectively :

Provided that, in calculating any compensation payable under the principal Act in respect of any exercise of the powers of the responsible authority under the said section thirteen in relation to the building, work or use, regard shall be had to the power of the responsible authority to take the like action, without payment of compensation, after the expiration of the said period. **[1206]**

(3) Where, in the exercise of any right conferred by a scheme as amended by the last foregoing subsection, a building is substituted for a building to which subsection (1) of this section applies, the foregoing provisions of this section shall have effect in relation to the substituted building as if it were the building for which it was substituted. **[1207]**

(4) The period for which any such permission was granted as aforesaid may be extended by the interim development authority on application made at any time before the expiration thereof ; and the provisions of section six of this Act and of subsection (5) of section ten of the principal Act (which relates to appeals to the Minister) shall apply to any such application as they apply to interim development applications. **[1208]**

(5) For the purposes of this Act, where permission for the erection, construction or carrying out of any building or work, or for any use of any building or land, has been granted subject to any condition or agreement for securing the subsequent removal of the building or work, or the subsequent discontinuance of the use, the permission shall be deemed to have been granted for a limited period only ; but permission shall not be deemed to have been so granted by reason only of the imposition of conditions requiring any building or work to be begun or completed within a specified period. **[1209]**

The principal Act contained no provision enabling an interim development authority to give consent for a limited period only, but s. 10 (3) (25 Statutes 482) enabled the authority, subject to the terms of the Interim Development Order under which they acted, to give a consent " subject to such conditions as they think proper to impose." A power to impose a condition that work be begun, or completed, within a specified time seems clearly within the power to impose conditions on consent, but it has been doubted whether a limitation on the period for which, *e.g.* a building may exist, or be used for a particular purpose is within the power. Nevertheless the grant of conditional consents framed so as to limit the operation of the consent to a period became increasingly common, and, whether or not such consents were valid under s. 10 (3) of the principal Act, they are made valid, or are at least given a statutory effect, by sub-s. (1) of this section.

For definitions of " existing building," " existing work " and " existing use," see s. 53 of the principal Act (25 Statutes 521-522).

Sub-s. (2) in effect extends the definition of existing building, etc., by preserving the protection which such buildings, works or uses have under the principal Act until the limited period for which a consent subject to such a limitation was granted has expired.

Sub-s. (4) empowers the interim development authority to extend the time limited by a temporary permission, and there is a right of appeal to the Minister against refusal of an extension of time. The power to extend must come to an end when a scheme comes into operation.

#### 4. Revocation and modification of permissions for interim development.—

(1) If at any time before a scheme under the principal Act comes into operation it appears to an interim development authority that it is expedient, having regard to the provisions then proposed to be included in that scheme, that any development for which permission has been granted on an interim development application should not be carried out or completed, or should not be carried out or completed to the extent or in the manner allowed by the permission, they may, by order made with the consent of the Minister,

revoke or modify the permission to such extent as appears to them to be necessary in that behalf. [1210]

This is one of the most important new powers in the Act. It is a logical corollary of the repeal of the absolute right to have an unconditional consent in certain cases, see s. 2 (1), *ante*.

The right to revoke now enables interim development authorities to regularise the position in relation to any consent which they may have been compelled to give under the repealed proviso to s. 10 (3) of the principal Act (25 Statutes 482). Such consents may now, with the consent of the Minister, be revoked. There is a right to be heard under sub-s. (3), *post*, which is, of course, the equivalent of a right of appeal.

The subsection will have a real value in cases in which consent has been obtained to the reconstruction of war-damaged property by means of an application which under the principal Act could not be refused.

(2) The Minister may give directions to any interim development authority requiring them to submit to him for his consent under the foregoing subsection an order for the revocation of any permission specified in the directions, or for the modification thereof in such manner as may be so specified; and if any such directions are not complied with within the time specified therein, the Minister may himself make the order on behalf of the authority. [1211]

This subsection empowers the Minister himself to initiate proceedings for the revocation of outstanding consents if the interim development authority do not do so.

(3) Where an interim development authority propose or are directed to exercise their powers under this section, they shall serve notice in the prescribed manner on the owner and on the occupier of the building or land affected, and on any other person who in their opinion will be affected by the order; and the Minister, before consenting to or making the order, shall, if either the authority or any such person so desire, afford them an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose. [1212]

As to the service of notices under this subsection, see Regulation 4 of the Town and Country Planning Additional Regulations, 1944 (S. R. & O., 1944, No. 319).

(4) Where any permission for the development of land is revoked or modified under this section, the interim development authority may pay to any person whose property is injuriously affected thereby any such contribution as might have been made by them under subsection (4) of section ten of the principal Act if a fresh application for such permission had been made by that person; and the provisions of subsections (6) and (7) of that section (which respectively enable an applicant whose appeal to the Minister is dismissed to require his land to be purchased by the interim development authority in certain cases, and provide for compensation for abortive expenditure incurred for the purpose of complying with conditions confirmed or imposed by the Minister on appeal) and of subsection (2) of section eighteen of that Act (which provides in certain cases for compensation under a scheme in respect of additional injurious affection caused by the refusal on appeal to the Minister of an interim development application or the imposition of conditions by the Minister on the grant thereof) shall apply as if the Minister had refused on appeal to grant such an application, or had imposed conditions upon the grant thereof, as the case may be. [1213]

The power to make a contribution under s. 10 (4) of the principal Act is a voluntary one and has rarely, if ever, been exercised. When an applicant appeals to the Minister under s. 10 (5) of the principal Act the Minister is required to take into consideration any offer to make such a contribution before determining the appeal. For sub-ss. (6) and (7) of s. 10, see 25 Statutes 484. The right to require purchase arises when land is proposed to be reserved for a public open space.

As to compensation for abortive expenditure required by the Minister, see s. 10 (7) of the principal Act, 25 Statutes 484, and for s. 18 (2), *ibid.*, 492. It is curious that the anomalous provisions which limit these rights to cases in which the Minister has imposed conditions or dismissed appeals have not been revised. In many cases appeals have to be taken to the Minister solely to preserve or obtain these rights.

**5. Power to enforce interim development control.**—(1) If while a resolution to prepare or adopt a scheme under the principal Act is in force with respect to any area, any development of land within that area is carried out after the commencement of this Act otherwise than in accordance with the terms of the interim development order or of permission granted under that order, then, subject to the provisions of this section, the interim development authority may, if they are satisfied that it is necessary or expedient so to do having regard to the provisions then proposed to be included in the scheme—

- (a) where the development consists of the erection, construction or carrying out of any building or work or any part of a building or work, remove or pull down the building, work or part ;
- (b) where the development consists of any use of the land or any building thereon, by order prohibit that use, and, where necessary, reinstate the land :

Provided that where it is reasonably practicable, by means of alterations or of the execution of any other works, to bring any such building or work into compliance with any permission granted as aforesaid, the interim development authority shall, instead of removing or pulling down the building or work, carry out those alterations or works so far as appears to them to be necessary or expedient as aforesaid. [1214]

This, again, is a most important power, and appears from the long title to have been one of the major purposes of the Act. Under the principal Act there was no control of this sort, and developers could defy the authority until a scheme came into operation. The delay which frequently occurred in the preparation and confirmation of schemes gave such developers an advantage—indeed it is said that in some cases schemes were modified at the last stage so as to regularise such development.

The right to object to the provisions of the draft scheme and to be heard at the confirmation inquiry remains and a refusal may still be overruled at this stage.

(2) The provisions of subsections (2) to (5) of section thirteen of the principal Act (which provide for an appeal to a court of summary jurisdiction against action proposed to be taken under that section) shall apply as set out with modifications in the First Schedule to this Act in relation to any action proposed to be taken under this section. [1215]

For s. 13 of the principal Act, see 25 Statutes 486-8.

(3) The Minister may give general or special directions for controlling the exercise by interim development authorities of their powers under this section, and may give to any such authority directions requiring them to exercise the said powers as respects any development specified in the directions in such manner as may be so specified ; and any such directions requiring an interim development authority to exercise their powers shall be enforceable, on the application of the Minister, by mandamus. [1216]

This is an exceedingly wide power and it is not clear how it will operate. Shortly, the Minister may instruct the interim development authority in some detail as to the exercise of the powers of the section.

(4) Any expenses reasonably incurred by an interim development authority in taking action under this section in respect of any development may be recovered summarily as a civil debt from the person by whom the development was carried out, and if that person, having been entitled to appeal against that action under the provisions of the First Schedule to this Act, failed so to do, he shall not be entitled in the proceedings under this subsection to dispute the validity of that action. [1217]

(5) If any person uses any land or building in a manner prohibited by an order under this section, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding fifty pounds, and if the use is

continued after the conviction he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding twenty pounds for every day on which the use is so continued. [1218]

(6) Where permission for any development of land has, whether before or after the commencement of this Act, been granted under an interim development order for a limited period only, and that period expires before the scheme comes into operation, the provisions of this section shall, after the expiration of that period, apply in relation to the development as if no such permission had been granted and as if the development had been carried out at the expiration of the said period by the person then entitled to possession of the land. [1219]

(7) For the purposes of this section and of section ten of the principal Act, the use of any land for the deposit of waste materials or refuse shall be deemed to constitute development of the land, notwithstanding that it is comprised in a site which is already being used for that purpose, if the effect of the further use is to extend the superficial area of the deposit. [1220]

The operation of this subsection appears to be limited to land which is being used for deposit of refuse and has been so used since a date before the "material date" (see s. 53 of the principal Act, 25 Statutes 520). Such a use is an "existing use" under the principal Act and is protected. It is not always easy to say what was the "site" or unit of land which was the subject of an existing use, but once the unit was established the use of any further part of the site for the purpose was not "development" within the principal Act (s. 53, *ibid.*). This is no longer so. If the area of deposit is increased there is "development" notwithstanding the existing use, and consent is required.

Cf. the Town and Country Planning (General Interim Development) Order, 1933 (S. R. & O. 1933, No. 236), Article 6 (2).

#### 6. Powers of Minister with respect to interim development applications.—

(1) If it appears to the Minister that it is expedient, having regard to considerations affecting the public interest, whether generally or in the locality concerned, that any interim development application, or any class or description of such applications, should be referred to him for decision, he may give directions to the interim development authority requiring that application, or applications of that class or description, to be so referred, and any decision of the Minister on an application so referred to him shall be deemed for the purposes of subsection (4) of section ten of the principal Act to be a decision given by the interim development authority, and for all other purposes of that Act to be a decision given by him on appeal from the decision of the interim development authority:

Provided that, before dealing with any application so referred to him, the Minister shall, if either the interim development authority or the applicant so desire, afford them an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose. [1221]

The Minister in effect may reserve to himself the jurisdiction to determine any application, or class of application, for permission to develop in any area. The right to be heard before decision is, in substance, the equivalent of the right to appeal after the interim development authority have made a decision.

(2) The Minister may give directions to any interim development authority requiring them to furnish him with such information with respect to interim development applications received by them as he considers necessary or expedient for the purpose of enabling him to exercise his functions under the last foregoing subsection. [1222]

(3) Provision may be made by an interim development order for requiring interim development authorities, before dealing with interim development applications or any class or description of such applications, to consult with such authorities or persons as may be determined by or under the order. [1223]

(4) Where an appeal is taken to the Minister under subsection (5) of section ten of the principal Act against the decision of an interim development authority upon any interim development application, the Minister may reverse or vary any part of the decision of the interim development authority, whether or not the appeal relates to that part, and may deal with the whole application in like manner as if it had been referred to him for decision under this section. [1224]

See note to s. 2 (3), *ante*. The Ministers' powers are very wide but he does not appear to have power to substitute postponement for refusal.

**7. Compensation for abortive expenditure in certain cases.**—(1) Where any interim development application, being an application for permission to complete or carry out a building or work begun or contracted for before the date on which the resolution to prepare or adopt a scheme under the principal Act took effect, is refused or is granted subject to conditions, then, without prejudice to the provisions of subsection (4) of section ten of the principal Act, if any person has—

- (a) where the resolution was in force at the date of the commencement of this Act, before that date ;
- (b) where the resolution took effect after that date, before the resolution took effect,

incurred expenditure in carrying out any work which is rendered abortive by the refusal or conditions, or entered into a contract for the purpose of any work which is abandoned by reason of the refusal or conditions, he shall be entitled to recover from the interim development authority by way of compensation an amount equal to the expenditure so incurred or, as the case may be, to any sums reasonably paid by him in discharge of any liability arising under the contract in respect of the abandonment of that work.

[1225]

This subsection has probably a limited application. The building or work must have been begun or contracted for before the date when the planning resolution took effect and the expenditure must have been incurred before July 22, 1943, or the date when the planning resolution took effect, whichever is the later date.

(2) Where any permission for the development of land is revoked or modified by an order under this Act, then, without prejudice to the provisions of subsection (4) of section four of this Act, if any person has, before the date of the order, incurred expenditure in carrying out any work which is rendered abortive by the order, or entered into a contract for the purpose of any work which is abandoned by reason of the order, he shall be entitled to recover from the interim development authority by way of compensation an amount equal to the expenditure so incurred or, as the case may be, to any sums reasonably paid by him in discharge of any liability arising under the contract in respect of the abandonment of that work. [1226]

This subsection is important. The right to compensation arises when a permission to develop had been granted, whether before or after the commencement of the Act, and that permission is afterwards revoked or modified under s. 4, *ante*. In such circumstances expenditure incurred by any person (whether the applicant or not) in carrying out work, or in respect of a contract which has to be abandoned is recoverable from the interim development authority. In the case of permission granted during the war a common form of abortive expenditure recoverable under this subsection will be expenditure by way of architects' fees for the preparation of plans and working drawings, which is expressly referred to in the following subsection. The plans required to be submitted with the application for permission to develop are not the subject of compensation.

(3) For the purposes of this section, any expenditure incurred in the preparation of plans for the purpose of any work, or upon other similar matters preparatory thereto, shall be deemed to be included in the expenditure incurred in carrying out that work, but except as aforesaid no compensation shall be paid under subsection (2) of this section in respect of any



work carried out before the date on which the permission was granted, or in respect of any liability arising under a contract made before that date. [1227]

(4) Any claim for compensation under this section shall be made within twelve months after the date of the final determination of the interim development application or, as the case may be, the date of the order revoking or modifying the permission. [1228]

**8. Interim protection of trees and woodlands.**—(1) If it appears to any interim development authority that it is expedient, having regard to any provision proposed to be inserted in the scheme in accordance with section forty-six of the principal Act, to make provision for the preservation of trees or woodlands during the period pending the coming into operation of that provision, they may for that purpose make an order (in this section referred to as an “interim preservation order”) with respect to such trees, groups of trees or woodland areas as may be specified in the order or as may for the time being be designated by the interim development authority in accordance with the order; and, in particular, provision may be made by any such order—

- (a) for prohibiting (subject to any exemptions for which provision may be made by the order) the cutting down, topping, lopping or wilful destruction of trees except with the consent of the interim development authority, and for enabling that authority to give their consent subject to conditions;
- (b) for securing the replanting of any part of a woodland area which is felled in the course of forestry operations permitted by or under the order; and
- (c) for the imposition of pecuniary penalties, recoverable in a court of summary jurisdiction, in respect of contraventions of the order not exceeding the sum of fifty pounds and, in the case of a continuing offence, forty shillings for each day during which the offence continues after conviction. [1229]

(2) An interim preservation order shall not take effect unless it is approved by the Minister, and the Minister may approve any such order either without modification or subject to such modifications as he thinks fit, but shall not approve any such order unless it contains provisions satisfactory to him—

- (a) for securing that any person aggrieved by the refusal of any consent required under the order, or by any condition imposed upon the grant of any such consent, is entitled to appeal to the Minister; and
- (b) for enabling the interim development authority, upon the refusal of any consent required under the order, or upon granting any such consent subject to conditions, to make a contribution towards any damage or expense likely to be suffered or incurred by reason of their decision. [1230]

(3) Regulations shall be made under section thirty-seven of the principal Act with respect to the submission and approval of interim preservation orders and the publication of notices thereof, and the Minister, before approving any such order, shall take into account any objections made in accordance with the regulations and not withdrawn:

Provided that where it appears to the Minister that any such order should take effect immediately, he may approve the order provisionally without complying with the requirements of this subsection with respect to the consideration of objections, but any order so approved shall cease to have effect upon the expiration of the period of two months from the date of the approval unless within that period it has been confirmed with, or without modifications, after compliance with those requirements. [1231]



(4) The compensation payable under subsection (1) of section eighteen of the principal Act in respect of injurious affection of property by the coming into operation of any provision included in a scheme in accordance with the said section forty-six shall include compensation in respect of any additional injurious affection of the property by the coming into operation of an interim preservation order under this section :

Provided that subsection (2) of section twenty-three of the principal Act (which specifies matters to be taken into account in assessing compensation under that Act) shall have effect as if the reference in paragraph (iii) of that subsection to a contribution made under the provisions of that Act relating to interim development orders included a reference to any contribution paid in accordance with the interim preservation order. [1232]

(5) Without prejudice to any exemptions for which provision may be made by an interim preservation order, no such order shall, while the Emergency Powers (Defence) Acts, 1939 and 1940, remain in force, prohibit or restrict the carrying out of any operations authorised by any government department in accordance with Regulations made under those Acts. [1233]

(6) The power to make interim preservation orders under this section shall include power to revoke or vary any such order by a subsequent order. [1234]

For s. 46 of the principal Act, see 25 Statutes 512. That section enabled the planning authority to insert in a scheme provisions for the protection of single trees, groups of trees or areas of woodland. Provision was made in the model clauses and commonly adopted in appropriate cases. There was no interim protection and felling of trees is not in itself "development" under s. 53 of the principal Act (25 Statutes 520). Interim control is now available. When a provision is proposed to be inserted in a scheme an "interim preservation order" may be made. Such an Order requires the approval of the Minister. Compensation, where appropriate, will be payable when the scheme comes into operation.

As to the procedure under this section, see Regulations 6-9 of the Town and Country Planning Additional Regulations, 1944 (S. R. & O., 1944, No. 319).

**9. Provisions as to joint committees.**—(1) Provision may be made by an interim development order for empowering any joint committee specified therein to permit the development of land in accordance with the terms of the order, and where such provision is made the joint committee shall be deemed to have been appointed or constituted for that purpose as well as for the purposes for which it was originally appointed or constituted. [1235]

(2) A joint committee may delegate to any sub-committee appointed by them under subsection (5) of section three of the principal Act, or under that subsection as applied with modifications by an order under section four of that Act, any of their functions, including any powers exercisable by them under or by virtue of an interim development order. [1236]

(3) An order under section four of the principal Act for the constitution of a joint committee may be made by the Minister without the request of any of the constituent authorities; and accordingly in subsection (1) of that section the words "at the request of any one or more of them" shall cease to have effect. [1237]

(4) A joint committee constituted by order of the Minister under the said section four or under any enactment repealed by the principal Act may be dissolved by a subsequent order of the Minister whether or not that order provides for the constitution of any other joint committee. [1238]

(5) Any land acquired, in accordance with any provision of the principal Act, by a joint committee being an interim development authority, shall be vested in the local authority for the district in which the land is situated, and shall—

- (a) until the date on which the scheme comes into operation be held in trust for the joint committee;
- (b) after that date, be held, transferred or disposed of in such manner as may be provided by the scheme. [1239]

**10. Provisions as to agreements.**—No agreement made after the commencement of this Act under section thirty-four of the principal Act for restricting the planning, development or use of any land shall have effect unless it has been approved by the Minister. [1240]

For s. 34 of the principal Act, see 25 Statutes 506. The power to make agreements under that section has been extensively used and the agreements are commonly scheduled to the scheme and given statutory effect, over-riding any provision of the scheme inconsistent with their terms. As the scheme itself requires the Minister's approval it was perhaps anomalous that a planning authority should have power to enter into an agreement, affecting possibly the planning of an extensive area of land, without consulting the Minister, and this anomaly is now removed.

**11. Provisions as to orders.**—(1) Any power of the Minister under the principal Act or this Act to make an order shall include, and in the case of an order under the principal Act shall be deemed always to have included, power to revoke or vary that order by a subsequent order. [1241]

(2) Any interim development order made after the commencement of this Act shall be laid before Parliament as soon as may be after it is made, and if either House, within the period of forty days beginning with the day on which the order is laid before it, resolves that the order be annulled, the order shall thenceforth become void but without prejudice to the validity of anything previously done thereunder or to the making of a new order.

In reckoning any such period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days. [1242]

**12. Special provisions as to London.**—Where an interim development application made to the London County Council is referred to the Minister for decision under the provisions of this Act, and the application is one of which notice is required by subsection (3) of section fifty of the principal Act to be given to the council of a metropolitan borough, the notice, if not previously given, shall be given on the application being referred to the Minister, and the Minister shall, in dealing with the application, take into account any representations made to the London County Council by the council of the borough. [1243]

For s. 50 (3) of the principal Act, see 25 Statutes 517. In London the local authorities are, as respects the City of London, the common council of the City, and elsewhere the London County Council. S. 50 (*loc. cit.*) contains a special procedure code and provides for consultation between the City and the County Council and between the County Council and Metropolitan Borough Councils. The present provision applies this procedure to the Minister.

**13. Construction and application of certain provisions of principal Act.**—

(1) Any reference in the principal Act to a local Authority shall, unless the context otherwise requires, be construed as including a reference to any county council by which a resolution to prepare a scheme is deemed to be passed under section one of this Act. [1244]

(2) Any reference in the principal Act to an authority specified in an interim development order, or to an authority empowered by such an order to permit the development of land, shall be construed as including a reference to a joint committee being an interim development authority as defined by this Act. [1245]

(3) In the following provisions of the principal Act, references to that Act shall, unless the context otherwise requires, be construed as including references to this Act, that is to say—

- (a) subsection (2) of section two (which enables the councils of county districts to relinquish in favour of county councils any of their powers and duties under that Act);
- (b) sections twenty-two and twenty-three (which relate to the making and determining of claims under that Act for compensation);
- (c) subsection (1) of section thirty-seven (which enables the Minister to make regulations for prescribing anything which is required or authorised by that Act to be prescribed);
- (d) subsection (1) of section thirty-eight (which relates to the holding of local inquiries for the purpose of that Act);
- (e) section thirty-nine (which relates to appeals from the decisions of courts of summary jurisdiction under that Act);
- (f) section forty (which relates to the determination by the Minister or by arbitration of applications and appeals under that Act);
- (g) subsection (1) of section forty-eight (which relates to the appointment by local authorities and county councils of committees for the purposes of that Act); and
- (h) subsections (1) and (2) of section forty-nine and subsection (8) of section fifty (which relate to the manner of defraying the expenses under that Act of local authorities, county councils and the councils of metropolitan boroughs, and to their power to borrow for the purposes of that Act). [1246]

**14. Interpretation.**—(1) In this Act the following expressions have the meanings hereby respectively assigned to them, that is to say :—

“interim development application” means an application made under an interim development order for permission to develop land;

“interim development authority” means a local authority, county council or joint committee empowered by an interim development order to permit the development of land;

“the principal Act” means the Town and Country Planning Act, 1932;

and other expressions have the same meanings as in the principal Act. [1247]

(2) Any reference in this Act to a resolution to prepare or adopt a scheme in force under the principal Act shall be construed as including a reference to an application or resolution which, under section fifty-two of that Act, has effect as if it were such a resolution. [1248]

(3) Any reference in this Act to the principal Act or to any provision thereof shall, except where the context otherwise requires, be construed as a reference to that Act, or to that provision, as amended by or under any subsequent enactment, including this Act. [1249]

**15. Short title, citation, extent and repeals.**—(1) This Act may be cited as the Town and Country Planning (Interim Development) Act, 1943, and this Act and the principal Act may be cited together as the Town and Country Planning Acts, 1932 and 1943. [1250]

(2) This Act shall not extend to Scotland or Northern Ireland. [1251]

(3) The provisions of the principal Act set out in the first column of the Second Schedule to this Act are hereby repealed to the extent specified in the second column of that Schedule. [1252]

## SCHEDULES

## Section 5.

## FIRST SCHEDULE

APPEALS FROM DECISION TO EXERCISE POWER TO ENFORCE  
INTERIM DEVELOPMENT CONTROL

1. Not less than twenty-eight days before taking any action under section five of this Act, the interim development authority shall serve a notice in the prescribed manner on the owner and on the occupier of the building or land in respect of which the action is proposed to be taken and on any other person who, in their opinion, may be affected thereby, specifying the nature of, and the grounds upon which they propose to take, that action.

2. If any person served with such a notice aforesaid desires to dispute any allegation contained therein, he may, by written notice served on the clerk of the court and on the interim development authority within twenty-eight days from the date of the service of the original notice on him, appeal to a court of summary jurisdiction for the petty sessional division or place within which the property to which the notice relates is situated, and the interim development authority shall not take the proposed action pending the final determination or withdrawal of the appeal.

3. If on any such appeal the court of summary jurisdiction are satisfied that the interim development authority are entitled to take the proposed action on the grounds specified in the notice, they shall dismiss the appeal and shall by their order empower the authority after the expiration of the said period of twenty-eight days, to remove or pull down the building or work, or to execute the required alterations or works or, as the case may be, shall by their order prohibit the building or land from being used after the period aforesaid without the permission of the authority or in contravention of any conditions subject to which that permission was granted, but, if they are not so satisfied, they shall allow the appeal :

Provided that the court by whom an order is made under this paragraph may, if they think fit, direct that the order shall, instead of taking effect after the expiration of the said period of twenty-eight days, take effect at such later date as they think fit, being a date not more than twenty-eight days from the date of the Order. [1253]

As to the service of notices under para. 1, see Regulation 5 of the Town and Country Planning Additional Regulations, 1944 (S. R. & O., 1944, No. 319).

## SECOND SCHEDULE

## Section 15.

## REPEALS OF 22 &amp; 23 GEO. 5, c. 48

Section 4 .. In subsection (1), the words " at the request of any one or more of them ".

Section 10 .. In subsection (3), the words from " and they shall be deemed to have granted the application " to the end of the subsection.

[1254]

## ORDERS, CIRCULARS AND MEMORANDA

THE MINISTER OF TOWN AND COUNTRY PLANNING  
(TRANSFER OF POWERS) (NO. 1) ORDER, 1943

S. R. &amp; O., 1943, No. 206

February 10, 1943

\* \* \* \* \*

His Majesty, in exercise of the powers conferred on Him by the Minister of Town and Country Planning Act, 1943 (hereinafter called " the Act "), is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. The functions transferred to the Minister of Town and Country Planning (hereinafter called "the Minister") by section one of the Act shall be so transferred as from the tenth day of February, nineteen hundred and forty-three (hereinafter called "the appointed day"). [1255]

2. In the construction and for the purposes of any enactment, judgment, decree, order, award, deed, contract, regulation, bye-law, certificate or other document passed or made before the appointed day any reference to, or which is to be construed as a reference to, the Minister of Works and Planning shall, so far only as may be necessary for the purpose or in consequence of the transfer effected by section one of the Act, be construed as a reference to the Minister. [1256]

3. The said transfer shall not affect any order, regulation, rule, appointment, direction, instruction, approval, requirement or authorisation made or given, or other thing done by the Minister of Works and Planning before the appointed day, or by the Minister of Health before the first day of July, nineteen hundred and forty-two, and in relation to the functions so transferred, any such matter shall, if in force on the appointed day, continue in force to the like extent and subject to the like provisions as if it has been duly made, given or done by the Minister. [1257]

4. Anything begun by or under the authority of the Minister of Works and Planning before the appointed day, or by or under the authority of the Minister of Health before the first day of July, nineteen hundred and forty-two, may, so far as it relates to any functions transferred by section one of the Act, be carried on or completed after the appointed day by or under the authority of the Minister. [1258]

5. Where on the appointed day any legal proceeding is pending to which the Minister of Works and Planning is a party, and the proceeding has reference to any of the functions transferred by section one of the Act, the Minister shall be substituted in the proceeding for the Minister of Works and Planning, and the proceeding shall not abate by reason of the substitution. [1259]

6.—(1) This Order may be cited as the Minister of Town and Country Planning (Transfer of Powers) (No. 1) Order, 1943.

(2) The Interpretation Act, 1889, applies to the interpretation of this Order as it applies to the interpretation of an Act of Parliament. [1260]

\* \* \* \* \*

## THE LOCAL LAND CHARGES (AMENDMENT) RULES, 1943

*S. R. & O., 1943, No. 1532/L.32*

*October 23, 1943*

I, John Viscount Simon, Lord High Chancellor of Great Britain, by virtue and in pursuance of the Land Charges Act, 1925, and of all other powers enabling me in that behalf hereby make the following Rules :—

1. In these Rules a Rule, paragraph, Schedule, or Part of a Schedule referred to by number means the Rule, paragraph, Schedule or Part so numbered in the Local Land Charges Rules, 1934, as amended by any subsequent Rules (hereinafter referred to as "the principal Rules"). [1261]

2.—(1) The following amendments shall be made in paragraph (1) of Rule 2 :—

- (a) the definition of the “Town and Country Planning Act” shall be omitted, and the following definitions shall be substituted therefor, namely, “The Act of 1932” means the Town and Country Planning Act, 1932; “The Act of 1943” means the Town and Country Planning (Interim Development) Act, 1943;
- (b) in the definition of “Planning Charges” the words “section 17 of the Town and Country Planning Act” shall be omitted and the following words shall be substituted therefor, namely, “sections 13 or 17 of the Act of 1932 or under section 5 of the Act of 1943 prohibiting the use of land or buildings, or interim preservation orders taking effect under section 8 of the Act of 1943.”

(2) For references in the principal Rules to the “Town and Country Planning Act” there shall be substituted references to “the Act of 1932.”  
[1262]

3. The following amendments shall be made in Rule 8 :—

- (a) after paragraph (2) the following new paragraphs shall be inserted, namely—

“(2A) in the case of any order prohibiting the use of land or buildings made under section 5 of the Act of 1943 affecting land as respects which a resolution to prepare a scheme is deemed to have taken effect by virtue of section 1 of that Act, a certified copy of the order.

“(2B) in the case of any interim preservation order taking effect under section 8 of the Act of 1943, a certified copy of the order and of the instrument signifying the approval, or provisional approval, of the order by the Minister.”

- (b) in paragraph (3), for the words “in either of the cases specified in paragraphs (1) and (2)” there shall be substituted the words “in any of the cases specified in the foregoing paragraphs” and after the words “Town and Country Planning Act” there shall be inserted the words “or under section 5 or section 8 of the Act of 1943.” [1263]

4. The following amendments shall be made in Rule 9—

- (a) after paragraph (2) the following new paragraphs shall be inserted, namely—

“(2A) in the case of an order prohibiting the user of land or buildings made under section 13 of the Act of 1932, a certified copy of the order.”

- (b) in paragraph (4), for the words “section 17” there shall be substituted the words “sections 13 or 17.” [1264]

5. After Rule 9 the following new Rule shall be inserted and shall stand as Rule 9A :—

“9A. Where by virtue of section 1 of the Act of 1943 a resolution to prepare a scheme is deemed to have been passed by a local authority, county council or joint committee, the entry in Part III of the Register with respect to the planning charge thereby acquired shall contain :—

- (a) particulars (by reference to a map) of the land over which the charge has been acquired;
- (b) a statement signed by the clerk to the local authority or county council, or by the chairman or secretary of the joint committee, as



- the case may be, that such a resolution has been deemed to have taken effect in relation to the land by virtue of the said section ;
- (c) notice of the place at which inspection may be made of the particulars, the map, and the statement ;
  - (d) the date of registration of the charge ; and
  - (e) if an order has been made under the proviso to the said section 1, the name of the local authority, county council or joint committee by which the resolution is deemed to have been passed.” [1265]

6. The following amendments shall be made in Part III of the First Schedule :—

- (a) in column 2 of Part III (a) after the words “ Town and Country Planning Act, 1932,” where these words secondly occur, there shall be inserted the words “ or any order made under section 5 of the Town and Country Planning (Interim Development) Act, 1943, or any interim preservation order under section 8 of that Act ;
- (b) in column 3 of Part III (a), after the words “ Town and Country Planning Act, 1932 ” there shall be inserted the words, “ or any order under section 5 of the Town and Country Planning (Interim Development) Act, 1943, or any interim preservation order under section 8 of that Act ” ;
- (c) in columns 3 and 4 of Part III (b), for the words “ section 17 ” in each place where those words occur, there shall be substituted the words “ section 13 or 17.” [1266]

7. These Rules may be cited as the Local Land Charges (Amendment) Rules, 1943, and the Local Land Charges Rules, 1934, as amended, shall have effect as further amended by these Rules. [1267]

Dated this 23rd day of October, 1943.

*Simon, C.*

### EXPLANATORY NOTE

The principal object of these Rules is to make provision for the registration as local land charges of the resolutions to prepare a planning scheme under the Town and Country Planning Act, 1932, which, by virtue of section 1 of the Town and Country Planning (Interim Development) Act, 1943, were deemed to have been passed by certain local authorities on the 22nd October, 1943.

Resolutions to prepare or adopt a scheme, and also the schemes themselves, are registerable as local land charges under section 15 of the Land Charges Act, 1925, as amended. Provision is made for the method of registration by the Local Land Charges Rules, 1934. It is now necessary to make special provision for the registration of the “ deemed resolutions ” under section 1 of the Town and Country Planning (Interim Development) Act, 1943, and the accompanying Rules make the amendments in the principal Rules of 1934 requisite for this purpose.

Certain minor amendments, consequential on the passing of the recent Act, are also made in the principal Rules.

For the convenience of the public, it is proposed, as soon as practicable, to issue consolidated Local Land Charges Rules in which the amendments made to the principal Rules by the amending Rules made in 1938 and 1942, as well as by these Rules, will be embodied. [1268]



ORDER IN COUNCIL APPROVING ADDITIONAL RULE  
EXTENDING THE RULES FOR THE DISPOSAL OF  
VALUELESS DOCUMENTS TO THE MINISTRY OF  
TOWN AND COUNTRY PLANNING

*S. R. & O., 1943, No. 1712*

*December 10, 1943*

\* \* \* \* \*

Whereas the Right Honourable Wilfrid, Baron Greene, Master of the Rolls, has in exercise of the powers conferred upon him by the first section of the Public Record Office Act, 1877, and the first section of the Public Record Office Act, 1898, made an Additional Rule for the Disposal of documents which are not considered of sufficient public value to justify their preservation in the Public Record Office :

And whereas all the conditions in regard to the said Additional Rule which are required to be fulfilled by the said Acts have been fulfilled :

Now, therefore, His Majesty, having taken the said Additional Rule (a copy whereof is hereto annexed) into consideration, is pleased, by and with the advice of His Privy Council, to declare, and doth hereby declare, His approbation of the same.

*E. C. E. Leadbitter.*

ADDITIONAL RULE referred to in the foregoing Order in Council.

[40 & 41 Vict. c. 55 ; and 61 & 62 Vict. c. 12.]

Additional Rule for the Disposal of Documents which are not considered of sufficient Public Value to justify their preservation in the Public Record Office.

I, the Right Honourable Wilfrid Arthur, Baron Greene, Master of the Rolls, in exercise of the powers conferred upon me by the first section of the Public Record Office Act, 1877, and the first section of the Public Record Office Act, 1898, do, with the approval of the Commissioners of His Majesty's Treasury, and the further approval of the Minister of Town and Country Planning, hereby make the Rule following :—

The Rules made by the Right Honourable William Baliol, Baron Esher of Esher, Master of the Rolls, the Rule made by the Right Honourable Sir Nathaniel Lindley, Master of the Rolls, and the Rules made by the Right Honourable Robert Alderson, Baron Wight, Master of the Rolls, approved by Orders in Council of the 30th day of June, 1890, the 19th day of May, 1899, and the 28th day of May, 1936, respectively, shall extend to Documents of the Ministry of Town and Country Planning. [1269]

11th August, 1943.

*Greene, M.R.*

The Lords Commissioners of His Majesty's Treasury approve of this Rule.

*J. P. L. Thomas.*

*A. S. L. Young.*

Further approved by the Minister of Town and Country Planning.

*W. S. Morrison.*

## THE TOWN AND COUNTRY PLANNING ADDITIONAL REGULATIONS, 1943

*P. R. & O., 1943*

*August 14, 1943*

B18.

The Minister of Town and Country Planning hereby certifies under section 2 of the Rules Publication Act, 1893, that on account of urgency the following Regulations should come into operation immediately, and in pursuance of the powers conferred upon him by the Town and Country Planning Act, 1932, as amended by the Town and Country Planning (Interim Development) Act, 1943, and all other powers enabling him in that behalf, hereby makes the following Regulations to come into force immediately as Provisional Regulations :—

1. These Regulations may be cited as the Town and Country Planning Additional Regulations, 1943. [1270]

2.—(1) In these Regulations unless the context otherwise requires :—

“ The Act ” means the Town and Country Planning (Interim Development) Act, 1943 (6 & 7 Geo. VI. c. 29) ;

“ The Minister ” means the Minister of Town and Country Planning ;

“ Interim development authority ” means a local authority, county council, or joint committee empowered by an interim development order to permit the development of land ;

“ Certified copy ” means a copy certified by any person duly authorised by the interim development authority in that behalf, as being a true copy.

(2) The Interpretation Act, 1889 (52 and 53 Vict. c. 63) shall apply to the interpretation of these Regulations as it applies to an Act of Parliament. [1271]

3. A notice required to be served in pursuance of subsection (2) of Section 2 of the Act may be served :—

(i) by delivering it at the residence of the person on whom it is to be served, or sending it by prepaid post addressed to that person at his residence ; or

ii if the notice is to be served on an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office, or sending it by prepaid post addressed to the secretary or clerk of the company or body at that office.

[1272]

4.—(1) A notice required to be served in pursuance of subsection (3) of section 4 of the Act may be served in the manner specified in Article 3 of these Regulations, or if the interim development authority are unable after reasonable inquiry to ascertain the name or address of the person upon whom it should be served, by addressing it to him by the description of “ owner ” or “ occupier ” of the premises (naming them) to which the revocation or modification relates, or of the premises (naming them) of which the owner or occupier will be affected by reason of his ownership or occupation, and by delivering it to some person on the premises, or, if there is no person on the premises to whom it can be delivered, by affixing it or a copy thereof to some conspicuous part of the premises.

(2) Where service under paragraph (1) of this Article is made by post the notice shall be sent by registered post. [1273]

5. A notice required to be served in pursuance of paragraph 1 of the First Schedule to the Act may be served in the manner specified in Article 4 of these Regulations. [1274]

6.—(1) Where an interim development authority make an order under section 8 of the Act with respect to trees or woodlands, and specify in the order trees, groups of trees, or woodland areas to be protected, they shall, by reference to a map on a scale of not less than 25 inches to the mile or such smaller scale as the Minister may in any case or class of cases approve, define the woodland areas, and indicate the position of the trees or groups of trees.

(2) The interim development authority shall as soon as may be after the making of an order under section 8 of the Act, submit two duplicates of the order and of the map (if any) to the Minister for his approval, together with a statement of the grounds on which they consider that the order should be made.

(3) The interim development authority shall forthwith give notice by advertisement of the submission of the order to the Minister, in a newspaper circulating in the area of the authority, and shall include in the notice a statement that the order and the map (if any) or certified copies thereof, will be open for inspection at a specified place or specified places and between specified hours, and that any objections or representations with reference thereto may be sent in writing to the Minister within fourteen days from the date of publication of the advertisement.

(4) Where the interim development authority specify in the order trees, groups of trees, or woodland areas to be protected, they shall, in addition to the publication of the advertisement as aforesaid, serve a copy of the order on the owner and occupier of the land upon which the trees, groups of trees, or woodland areas are situate and, where known, on the person entitled to fell the trees or woodlands, together with a notice containing the particulars mentioned in the last preceding paragraph, but with the substitution for the period therein specified within which objections or representations may be sent to the Minister, of a period of fourteen days from the date of the service of the notice.

(5) The Minister shall take into consideration any objections or representations in writing received by him within the time specified under paragraphs (3) and (4) of this Article, and if a local inquiry is held, the report of the inquiry and shall approve the order either without modification or subject to such modifications as he thinks fit, or disapprove it.

(6) The local authority shall, after they have received notice from the Minister that he has approved the order, forthwith give notice thereof by advertisement, and shall include in the notice a statement that the order as approved by the Minister and the map (if any), or certified copies thereof, will be open for inspection at a specified place or specified places and between specified hours. The interim development authority shall also, where trees, groups of trees, or woodland areas are specified in the order, serve a copy of the order as approved on the owner and occupier of the land upon which the trees, groups of trees, or woodland areas are situate and where known on the person entitled to fell the trees or woodlands. [1275]

7.—(1) Where under the provisions of Article 6 of these Regulations notice is required to be given of facilities for the inspection of an order or map, the interim development authority shall arrange for the order or map to be deposited at a place convenient to their area, and, where the provisions of the order relate to more than one district, the interim development authority shall, where necessary for the convenience of persons affected, arrange for the order or map to be deposited at more than one place.

(2) The interim development authority shall arrange for giving access to the order or map at all reasonable hours and without charge and the order or map shall be kept deposited and available for inspection throughout the period specified in the notice for making objections or representations.

(3) For the purpose of this Article "order or map" includes a certified copy of the order or map. [1276]

8. Where the interim development authority are of the opinion that the matter is one of urgency and should be dealt with by the Minister under the proviso to subsection (3) of section 8 of the Act, they shall defer giving notice of the submission of the order to the Minister until they have been informed by the Minister of his decision as to the making of a declaration under the said proviso, and if they are informed that the Minister has decided to make such a declaration they shall, where trees, groups of trees, or woodland areas are specified in the order, serve a copy of the declaration on the owner and occupier of the land upon which the trees, groups of trees, or woodland areas are situate, and where known on the person entitled to fell the trees or woodlands, together with the documents specified in paragraph 4 of Article 6 of these Regulations. [1277]

9. A notice or other document required to be served in pursuance of Articles 6 and 8 of these Regulations may be served in the manner specified in paragraph (1) of Article 4 of these Regulations. [1278]

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## TRAMWAYS

*See ACTIONS BY AND AGAINST LOCAL AUTHORITIES.*

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## TUBERCULOSIS

*See DISEASE.*

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## UN SOUND FOOD

*See FOOD AND DRUGS.*

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## VALUATION LIST

*See RATES AND RATING.*

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## VENEREAL DISEASES

*See DISEASE.*

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# WEIGHTS AND MEASURES

ORDERS, CIRCULARS AND MEMORANDA :—

Weights and Measures (Sand and Ballast) (Amendment) Regulations, 1943 —

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## ORDERS, CIRCULARS AND MEMORANDA

### THE WEIGHTS AND MEASURES (SAND AND BALLAST) (AMENDMENT) REGULATIONS, 1943

*S. R. & O.*, 1943, No. 1609

*November 18, 1943*

The Board of Trade in exercise of the powers conferred upon them by the Weights and Measures Acts, 1878 to 1936, and of all other powers enabling them in that behalf do hereby make the following Regulations :—

1.—(a) These Regulations may be cited as the Weights and Measures (Sand and Ballast) (Amendment) Regulations, 1943.

(b) The Interpretation Act, 1889 (52 & 53 Vict. c. 63), shall apply to the interpretation of these Regulations, as it applies to the interpretation of an Act of Parliament. [1279]

2. Regulation No. 2 of the Weights and Measures (Sand and Ballast) (Amendment No. 2) Regulations, 1941, shall have effect as if the words “1st April, 1945” were substituted for the words “1st April, 1944.” [1280]

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## WILD BIRDS

*See ANIMALS.*

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## WRECK

*See HARBOURS, DOCKS AND WHARVES.*

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